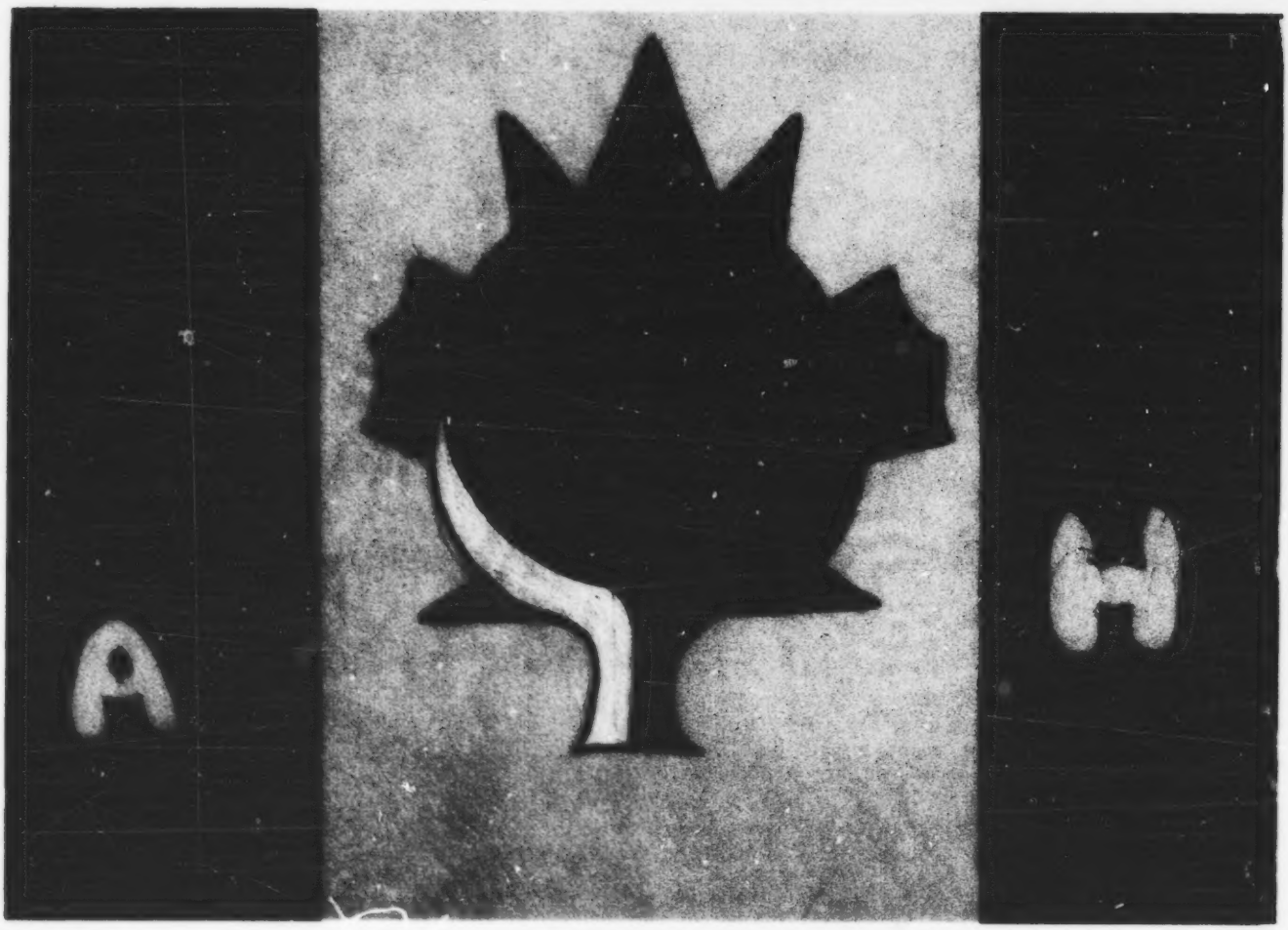
MANITOBA HUMAN RIGHTS COMMISSION



1984 Annual Report

The Manitoba Human Rights Commission

1984 Annual Report

The Manitoba Human Rights Commission
1007 - 330 Portage Avenue
Winnipeg, Manitoba
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or

The Manitoba Human Rights Commission
Room 1, P.O. Box 2550
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or

Provincial Government Building
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Brandon, Manitoba
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All other locations within Manitoba outside of Winnipeg:
Phone 1-800-282-8069 (Toll free to caller)

ATTORNEY-GENERAL OF MANITOBA
WINNIPEG R3C 0V8

Her Honour,
Pearl McGonigal,
Lieutenant-Governor for the Province
of Manitoba

Madame:

May it please your Honour, it is my pleasure to present to your Honour the Annual Report of The Manitoba Human Rights Commission for the year 1984.

Roland Penner

Roland Penner, Q.C.

The Manitoba Human Rights Commission

(204) 944-3007/944-3008
1007 — 330 Portage Avenue
Winnipeg, Manitoba
R3C 0C4

Please refer to file _____

The Honourable Roland Penner, Q.C.
Attorney-General
Legislative Building
Winnipeg, Manitoba
R3C 0V8

Sir:

We are pleased to forward to you, the Minister responsible for administration of the Manitoba Human Rights Act, the Annual Report of the Manitoba Human Rights Commission for the calendar year ending December 31, 1984.

Claudia Wright
Chairperson

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The Commissioners

Chairperson:

Claudia Wright

Commissioners: (As at December 31, 1984)

		Term Expires
Claudia Wright	Chairperson	1985
Marek Debicki	Vice-Chairperson	1985
Wayne Courchene	Commissioner	1985
Jill Oliver	Commissioner	1985
Hélène Bulger	Commissioner	1986
James Eagle	Commissioner	1986
Unni Hordern	Commissioner	1986
John Lane	Commissioner	1986
Mario Santos	Commissioner	1986
Joy Cooper	Commissioner	1987
Don King	Commissioner	1987
Mario Sosa	Commissioner	1987

(For biographies of Commissioners see p. 46)

Minister:

The Honourable Roland Penner, Q.C.
Attorney-General

The Staff (as of December 31, 1984)

Executive Director:

Darlene Germscheid

Administrative Officer:
J.A. Kenneth McCuaig

Administrative Secretaries:
Frieda Brandt
Linda Kopys
Donna May
Terry Panchuk

Education Officer:
Roger Young

Coordinator, Volunteer Program
Judith Burch

Intake Counsellor:
Barbara Stanford

Chief Enforcement Officer:
Mariann Burka

Enforcement Officers:
Buelah Blake
Walter Budge
Patrick Daly
Sandra Devon
Helen Forrest
Nancy Flintoft Meronek
Kenneth Swain
Sharon Wickman
Stanley Wood

The Pas Office

Regional Supervisor:
Ronald Chief

Regional Intake Officer:
Elizabeth Bennett

The Function of the Manitoba Human Rights Commission

The Universal Declaration of Human Rights declares that: "All human beings are born free and equal in dignity and rights." In Manitoba, this ideal has been translated into law by *The Human Rights Act*, a provincial statute which prohibits discrimination on the basis of race, nationality, religion, sex, age, handicap, or other group stereotypes. The complete text of *The Human Rights Act* is reproduced in Appendix E.

The Manitoba Human Rights Commission is the agency chiefly responsible for carrying out the provisions of *The Human Rights Act*. The Commission is authorized by *The Act* to administer the enforcement provisions, to carry out educational activities, and to consider and approve applications for approval of special programs in employment, housing, and services. Through these activities, the Commission attempts to reduce discrimination and promote social change leading to equal opportunity for all.

All services provided by the Commission are available to the public without charge.

Enforcement of the Human Rights Act.

The Human Rights Act specifically prohibits discrimination on the basis of race, colour, nationality, ethnic/national origin, sex, marital status, physical or mental handicap, age, family status, source of income, religion and political belief. It also prohibits discrimination based on unspecified group factors when the differential treatment is without reasonable cause.

The jurisdiction of the Human Rights Commission is restricted to matters within the constitutional authority of the provincial legislature. Most activities carried on in the province fall within provincial jurisdiction. However complaints against certain federally regulated enterprises, such as airlines, railways and the federal civil service, should be filed with the Canadian Human Rights Commission (telephone 949-2189). The staff of either commission will answer any questions regarding the appropriate jurisdiction to deal with a particular complaint.

The enforcement program of the Commission includes those activities related to the acceptance and disposition of Complaints of Discrimination. The objectives of the enforcement program are to reduce discriminatory behaviour and to alleviate the effects of discrimination by:

a) accepting and investigating complaints with a view to accurately identifying the existence of illegal discrimination, and
b) affecting settlements which ensure future compliance with *The Human Rights Act* and appropriate remedies for the victims of illegal discrimination.

Any person who believes that someone has contravened a provision of *The Human Rights Act* is invited to contact the Commission's Intake Counsellor and discuss his or her concerns. All calls are confidential and the Commission will not act without the caller's consent. If the issue falls within the jurisdiction and scope of *The Act*, the details of the allegation are recorded and the complaint is assigned to an Enforcement Officer. The Officer then arranges an appointment to meet with the complainant to obtain a signed Complaint of Discrimination. A copy of this form is included as Appendix G. (*The Act* requires that a complaint be filed within six months of the alleged contravention.)

As soon as possible, the signed complaint form is served on the party who has been accused of the discriminatory behaviour (the respondent), and he or she is invited to respond to the allegations. A thorough investigation of the allegations and the response is then carried out to determine the facts of the matter and to ensure that the rights of both parties are fully protected. On conclusion of the investigation, the findings are assessed. If the allegation is not supported by the evidence, the complaint is dismissed. If it appears to be justified, attempts are made to resolve the matter through conciliation.

Conciliation is a process common to most Canadian human rights complaint procedures. This allows for complaints to be voluntarily resolved by the parties concerned without adjudication. All matters related to the conciliation stage are confidential.

Should a complaint not be resolved during the conciliation stage, it is referred to the board of Commissioners, who may determine that the matter should be decided by an impartial Adjudicator.

The Adjudicator is appointed by the Attorney-General to hold a formal public hearing. All parties to the complaint are invited to present their arguments. Witnesses may be called and

are subject to cross-examination. The Commission has the carriage of the complaint and is represented by legal counsel. The respondent and the complainant may also be represented by legal counsel if they wish.

If the Adjudicator, after hearing all the evidence rules that a contravention of *The Human Rights Act* has occurred, he or she has the authority to make an order requiring the respondent to comply with *The Act*; to provide the denied service, employment, or housing; to pay lost wages or out-of-pocket expenses incurred by the complainant; or to pay other damages as may be deemed appropriate by the Adjudicator.

If any party disagrees with an Adjudicator's decision, he or she may file an appeal in the Court of Queen's Bench within the time limit set out in *The Act*. In some cases, complaints may be appealed to the Manitoba Court of Appeal and even to the Supreme Court of Canada.

With the consent of the Attorney-General, criminal proceedings may be launched in certain cases where criminal prosecution for violation of *The Act* appears appropriate. If a person is found guilty in these proceedings, he or she may be subject to a fine of not less than one hundred dollars for an individual and not more than five thousand dollars for a corporation.

A chart of the Usual Steps in Processing Complaints can be found on page 13.

Education

It is the object of the education program to reduce discrimination through educational activities designed to:

a) promote an understanding of, acceptance of, and compliance with *The Human Rights Act*, and

b) further the principles of equality in freedom and dignity, and equality of opportunities for all.

The Commission's education program includes a speaker service through which members of the staff and Commissioners are available to speak to groups about the rights and responsibilities described in *The Act* or any other topic related to human rights. Volunteer speakers are also available to speak to school children about basic human rights issues such as the falsehood and danger of group stereotyping, and the evolution of human rights in Canada and the world community. Persons wishing to utilize the speaker service should contact the Human Rights Intake Counsellor or the Volunteer Co-ordinator at the Commission.

The education program also includes outreach activities intended to maintain an on-going liaison with various sectors of the community, and to assist and encourage community initiatives in activities designed to further the principles of human rights.

In addition, the Commission develops and conducts special education projects such as seminars, workshops, and contests through the utilization of both staff and volunteers. Various publications and audio-visual materials are produced by the Commission and loaned or distributed free of charge to the public. See Appendix H for a list of current materials.

Special Programs

Protection against ongoing discrimination by itself is not enough. Historical practices have sometimes limited opportunities for minority groups by excluding them from equal participation in certain areas such as employment. To overcome these long-standing inequalities, it is often necessary to implement corrective measures by giving special preference to minority group members who have been traditionally denied access to training, education, job experience, or other opportunities. Section 9 of *The Act* gives the Commission the authority to approve affirmative action and other special programs which are designed to promote the "socio-economic welfare and equality in status" of such groups.

If an employer, rental agent, or service agency wishes to implement such a program, the Commission should be advised as soon as possible and provided with information about the designated target groups, starting and termination dates, and any other information which would demonstrate the manner in which the program would promote the "socio-economic welfare and equality in status" of the target groups. This information will be reviewed by the Special Program Committee and a recommendation will be made to the next meeting of the board of Commissioners. If the program is approved, the applicant is advised in writing. With this written approval, the preferential treatment for the specified target group is permitted without contravention of *The Human Rights Act*. The approval may be revoked at any time if the Commission learns that the program is not being carried out in a manner consistent with the principles on which it was approved.

The Manitoba Human Rights Commission may only consider those programs and activities which fall within provincial jurisdiction. Those which fall within the jurisdiction of the federal government should be discussed with the Canadian Human Rights Commission.

Personnel

The Manitoba Human Rights Commission consists of two components. One component is the board of Commissioners, chosen from the public at large by the Lieutenant Governor-In-Council. The board meets on a monthly basis and is responsible for the policies and general direction of the Commission. The second component is the civil service staff, which carries out the day-to-day activities of the Commission.

The Responsibilities of the Commissioners

Commissioners are selected from various geographic, cultural, social, and economic sectors of the province. They are appointed for three year terms, and serve on a part-time basis. There are thirteen Commissioners, one of whom is the Chairperson and another the Vice-Chairperson.

The board of Commissioners establishes the policies which determine the manner in which the professional staff administer the programs and activities of the agency, and monitors and evaluates such programs. It is also the function of the board to ensure the appropriate disposition of complaints under *The Act* and to approve Special Programs. All complaints and requests for Special Program approval are reviewed in detail by the board prior to disposition.

One point that should be stressed is that neither the staff nor the board of Commissioners has the authority to order compensation or remedies for persons who feel they have suffered as a result of discrimination. If it appears that *The Act* has been violated and efforts to reach a mutually agreeable settlement have been unsuccessful, the only further action which may be taken by the Commission is to request the Attorney-General to appoint an impartial Adjudicator to hear the matter and make an appropriate order. Where a criminal prosecution for violation of *The Human Rights Act* appears to be appropriate (not a common occurrence) the Commission may recommend that the Attorney-General commence a prosecution.

The Duties of the Staff

It is the members of the staff who are in direct contact with the public. It is they who examine, investigate, and attempt to conciliate complaints of discrimination, and it is they who conduct the Commission's educational activities.

Human rights work is a demanding profession. Enforcement Officers are constantly placed in sensitive situations, and they must bring to their work a wide variety of skills. Human rights professionals are required to be effective listeners and to have the ability to relate to persons from varied backgrounds, while maintaining neutrality and objectivity. Coupled with investigative skills, Officers must also be able to negotiate settlements between often hostile parties without compromising the intent of *The Act*.

The Commission employs one Education Officer. This individual is involved in a variety of educational activities including speaker services, outreach, and general consultation. The Education Officer must be energentic and creative, and be able to work effectively with business, community groups, and other institutions and organizations in the delivery of human rights education programs.

The Intake Counsellor responds to all inquiries from the public and will initiate complaint procedures where appropriate, accept requests for speaker services, provide information regarding other services of the Commission, and assist callers to reach appropriate alternate agencies if *The Human Rights Act* does not appear to be applicable.

The quality and efficiency of the work carried out by the Commission is greatly enhanced by a small complement of competent and dedicated support staff who provide the necessary administrative support services.

The staff work under the direction of the Executive Director, who is responsible to both the board of Commissioners and the Department of the Attorney-General for the effective operation of the Commission.

An Overview of 1984 Activities

Nineteen eighty-four was another year of scarce resources and increased public demand. Attempts to obtain additional staff were unsuccessful and, as a result, the Commission has found it difficult and sometimes impossible to provide the level of service to which the people of Manitoba are entitled.

Board of Commissioners

In June of 1984, the Chairperson's term of office expired and Dale Gibson left the Commission after two years of dedicated and energetic leadership. Claudia Wright, a member of the board of Commissioners who was actively involved with several committees including the Executive Committee and the Legislative Review Committee, was appointed as Chairperson.

In September, the Commission also lost its Vice-Chairperson, Lawrie Cherniack. Mr. Cherniack's increased involvement in municipal and community affairs made it impossible for him to complete his term. He has been succeeded as Vice-Chairperson by Marek Debicki who has been an active member of the Commission since 1982 and a member of several committees.

It was reported in the 1983 Annual Report that the Manitoba Government had structured the appointments of Commissioners to permit staggered terms of one, two, and three years and that future appointments would be for three year periods. The Commission believes that this change will strengthen the real and apparent independence of the Commission, and will ensure a continuity of experience in the board of Commissioners. Through the Proposed Manitoba Code of Human Rights, it has been recommended that this schedule of appointments be entrenched in the legislation.

The first group of staggered terms expired in 1984. This group included the terms of Regina Bueno, Maureen Miller, Maureen Penner, and Frank Whitehead.

New appointments included Joy Cooper, Jim Eagle, Don King, Mario Santos, and Mario Sosa. Biographical information about the new members can be found in Appendix D.

At the end of 1984, one vacancy existed on the board.

Staff

We began the year with a vacancy in the enforcement staff which was filled during 1984 by Sandra Devon. Sandra is employed on a half-time basis as she is sharing a position with another Enforcement Officer.

Enforcement

The record high number of complaints filed in the previous year and additional staff shortages resulting from maternity and sick leave created a serious strain for the enforcement program during the past year. For the first time since the Commission's inception, Enforcement Officers were unable to absorb all incoming complaints into their caseloads and a backlog of unassigned cases began to develop. As the delays in the initiation of investigations increased, certain procedural changes had to be made to ensure that formal Complaints of Discrimination were filed within six months of the date of the alleged contravention as required by *The Act*.

A ten percent decrease in the number of complaints filed in 1984 appears to be directly related to the backlog in that many people were discouraged by the lengthy delays in the commencement of an investigation and chose not to file. (Statistics can be found in Appendix C.)

For a full report on the status of complaints which are currently under adjudication or before the courts, please see Appendix A. Appendix B contains summaries of sample cases concluded in 1984.

Education

During 1984, the Commission continued to deliver its education program with only one Education Officer supplemented by the services of volunteers recruited under the Volunteer Program and, to a very limited extent, by other staff and Commissioners.

Through the Speaker Service Program, staff and Commissioners attended 112 events reaching a total audience of approximately 3600. Ninety of these events took place in Winnipeg, six were held in communities in the North, and the remaining sixteen in various other centres throughout the province. The audiences consisted of 46 potential complainant groups, 16 business groups, 22 schools, and 28 other groups including social clubs, community organizations, and social service agencies.

Through the utilization of the STEP Program, the Commission was able to produce an audio-visual tape in three Native Languages which describes the provisions of *The Human Rights Act*; and an Inventory of Human Rights Teaching Materials was compiled. This publication has been distributed to schools throughout the province. In addition, we published our general brochure in French. Other publications in various stages of revision or development at year end include — Employee Benefit Plan Guidelines; Housing Guidelines (revised); and a brochure on the rights and responsibilities of respondents.

Other education projects initiated during 1984 included a workshop on "Offensive Terms" scheduled for April 1985, and the development of a course for community-based human rights advocates. Several education projects were conducted by volunteers and these will be discussed later in this report.

Special Programs

During 1984, approximately twenty-five community organizations and businesses requested approval of special programs designed to provide employment, services and housing to disadvantaged groups such as women, disabled persons, Native people, youth, and others.

In addition to granting approval for such programs, the Commission has established a Special Program Committee to work towards the development of improved policies and procedures for the assessment and review of affirmative action and other special program applications.

Volunteer Program

The services of a Volunteer Co-ordinator continued to be provided during 1984 through the Volunteers in Public Service Program of the Department of Employment Development and Economic Security. Through her efforts, the volunteer program has continued to supplement the services of the Commission and to create interesting and worthwhile volunteer opportunities for Winnipeggers. Approximately 40 volunteers have contributed their time and skills to various human rights projects most of which have been supplemental to the education program. In addition to their expertise and commitment, the volunteers have brought with them a fresh perspective and a link with the community which has enriched the educational activities of the Commission.

Volunteers have developed a Volunteer Speakers Program to enable the Commission to reach out into the schools to promote the principles of human rights among young people. Two volunteers, one a teacher, the other an education student, planned and presented three workshops on the topic of Teaching of Human Rights for approximately 60 Manitoba social studies teachers at a 1984 provincial teachers' conference; and volunteer teen-agers from the Winnipeg Boys and Girls Clubs assisted in the promotion of human rights by producing a video concerning discrimination and stereotyping from the perspective of core area Winnipeg youth. Other projects of the Volunteer Program include the preparation of a series of articles and announcements related to matters of human rights to be offered for publication in special interest newspapers and through rural media, and the production of a four-page insert for "Welcome News", a newspaper directed to new immigrants who are learning English as a second language.

Individuals and organizations interested in these or other aspects of the volunteer program are urged to contact the Volunteer Co-ordinator at 945-3019.

Human Rights Library

For many years the Commission has maintained a human rights reference library which has been available for public use. In recent years, limited resources have affected our ability to maintain the library and, in 1984, after considerable study and deliberation, a decision was made to convert the library into an internal resource facility.

National and International Liaison

The Manitoba Human Rights Commission is a member agency of three national and international organizations concerned with human rights. These are the Canadian Association of Statutory Human Rights Agencies (CASHRA), the International Association of Official Human Rights Agencies (IAOHRA), and the National Association of Human Rights Workers. Through membership in these organizations the Commissioners and staff are able to keep informed about recent developments in the field and participate in various staff development and training opportunities, in addition to contributing the knowledge gained from our own experiences and insights to the evolution of human rights theory and legislation.

Dale Gibson, while Chairperson of the Manitoba Human Rights Commission, served as the 1983/84 President of CASHRA and chaired the annual meeting and conference which was held in Winnipeg in late May 1984. The conference provided a valuable opportunity for human rights practitioners from all parts of Canada, and from other countries as well, to share their experiences and acquire additional skills and knowledge. Individuals with expertise in human rights education and enforcement from Canada and the United States acted as panelists and facilitators; the Government of Manitoba made a substantial financial contribution; the Attorney-General of our province addressed the delegates at a dinner hosted by him and held at the Indian and Metis Friendship Centre; and a small group of staff and Commissioners of the Manitoba Commission carried out the many organizational and administrative tasks. Thanks to this input of time, effort and resources, the conference was a tremendous success.

Another important national liaison organization is the Federal/Provincial/Territorial Continuing Committee of Officials Responsible for Human Rights. Although the Commission is not formally connected with the Committee, the Executive Director has been appointed by the Attorney-General as Manitoba's Official Representative. This Committee is responsible for monitoring Canada's compliance with the various international conventions relating to human rights to which Canada is a party, and provides information and advice to Ministers Responsible for Human Rights at regular Ministerial Conferences. Through the Committee, new and emerging human rights issues are brought to the attention of Ministers for consideration in the development of policy at the governmental level.

Regional Offices

In addition to the Commission's principal office in Winnipeg, a regional office has been maintained in The Pas for several years and, late in 1983, space was acquired for an office in Brandon. Although staff shortages have not permitted the allocation of full-time staff, the Brandon office has been operated on a part-time basis for the past year. We hope to be able to locate permanent full-time staff in Brandon by the Fall of 1985.

The Commission continues to serve all areas of the province by sending its staff wherever their services are required, and by the provision of a toll-free telephone line (1-800-282-8069). However, we recognize the right of all Manitobans to have the greatest possible access to the protection of their legal and civil rights; and we will therefore continue our efforts to improve the accessibility and efficiency of service delivery to all areas of the province.

Native Concerns

The Commission continued to regard "the improvement of communication and cooperation with representatives of the Native community" as a high priority in 1984. Although staff shortages and ever-increasing work loads have severely limited our attempts to initiate new activities in any area, we have continued to reach out to organizations and individuals who might help us to identify the most appropriate ways and means to address the causes and effects of the continuing history of discrimination against Native people in this province.

In order to bring more information about *The Human Rights Act* to Native communities, the Commission utilized the STEP - in - Government Program to develop an audio-visual tape which explains the provisions of *The Act* and the work of the Commission in Cree, Saulteaux, and Island Lake dialect. The tape is available on request by contacting the Commission.

Proposed New Legislation

The development of a proposal for a new code of human rights for the province which had been underway since 1982 was completed and made public in May of 1984. The new Manitoba Code of Human Rights will, if enacted, be among the most advanced of its kind in the country. The bulk of the changes proposed are unspectacular in themselves, however. The new Code will not depart from the general approach to human rights protection that has evolved across North America since World War II. The changes proposed are in the nature of improvements on that basic pattern. It is the total weight of all these needed changes, rather than the overwhelming significance of any one of them, that has necessitated a complete re-writing of the legislation.

Some of the proposed changes include:

- paramountcy over all other Manitoba statutes and laws,
- fixed and staggered terms for Commissioners with appointments by a committee of the Legislative Assembly,

- the right of complainants to request adjudication when their complaints are dismissed by the Commission,
- protection for employers and others who rely on advisory opinions of the Commission,
- a panel of adjudicators and a Chief Adjudicator appointed by a committee of the Legislative Assembly,
- new prohibited grounds of discrimination to include sexual orientation, criminal record, pregnancy, and others,
- equal pay for work of equal value provisions to combat the economic effects of systemic discrimination,
- a new section dealing with discriminatory and offensive statements and terms,
- clarification of prohibitions against harassment,
- many other improvements.

The Manitoba Human Rights Commission has strongly urged the Government of Manitoba to consider the introduction of the new Proposed Code of Human Rights at the next session of the Legislature.

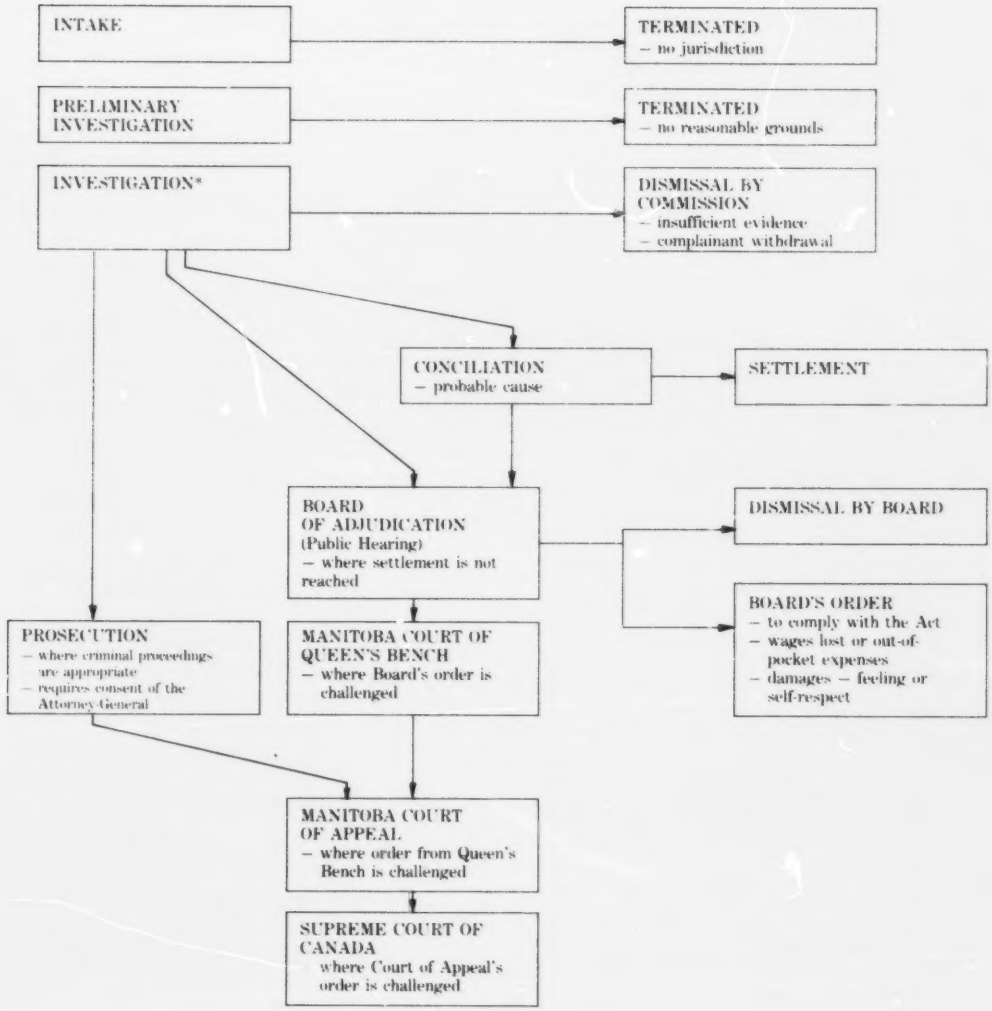
Employee Benefit Plan Guidelines

The committee responsible for the development of regulations for the application of *The Human Rights Act* to various employee benefit plans made considerable progress over the past year and, late in 1984, draft regulations were submitted for the consideration of the government. Although the regulations have not yet been passed, the committee has now begun work on the development of the educational and interpretive material which will accompany the regulations when they are distributed to the public.

Future Directions and Needs

In the coming year, the Manitoba Human Rights Commission will continue its efforts to provide meaningful protection against discrimination, and better human rights education. An anticipated increase in our enforcement staff should enable us to deal with complaints of discrimination more expeditiously than we could in 1984; however, with no likelihood of additions to the education staff and the possibility that we will be unable to continue with the Volunteer Program, our ability to take the initiative in preventative activities and projects, more effective human rights education, and the promotion of affirmative action and other special programs will continue to be severely constrained. The Commission will, nonetheless, strive to carry out all aspects of its mandate as effectively and efficiently as possible.

Usual Steps in Processing Complaints



*After investigation, the Commission may decide at its discretion not to pursue conciliation but to choose alternative routes of a Board of Adjudication or prosecution.

Appendix A
Updates on Previous Boards of Adjudication and Appeals

The following are matters which have been heard by a Board of Adjudication prior to 1984. They are included here to provide an update on developments which may have occurred during 1984, or their status before the courts.

Appeal
McDonald vs. Knit-Rite Mills

(Previously reported in the 1982 and 1983 Annual Reports)

Background:

Irene McDonald, a cutter-spreader employed by Knit-Rite Mills, had filed a complaint alleging that she had been placed in a lower classification than male employees, was receiving a lower rate of pay and was ultimately laid off because of her sex. The matter was investigated and the evidence supported the allegation. A satisfactory settlement could not be negotiated and the matter was referred to a Board of Adjudication. Professor Jack London was appointed by the Attorney-General to adjudicate the complaint and the hearing began in December, 1982.

In December, 1983, Professor London delivered his decision. He found that the complainant had been a victim of systemic discrimination in that the sex of a worker in the cutting room had been a determining factor in starting rates of pay, job assignments and pay increases prior to introduction of the classifications and the classication had directly resulted from these earlier forms of sexual discrimination. He therefore ruled that the classification of Ms. McDonald and her subsequent layoff had been discriminatory.

He ordered that Knit-Rite Mills pay to Irene McDonald the amount of wages lost as a result of the lower classification; that she be compensated for wages lost during the period she was laid off and that she be reinstated in the higher classification. Knit-Rite Mills Limited filed an appeal against this in the Court of Queen's Bench.

1984 Update:

By the end of the calendar year the appeal had not yet been heard, but was scheduled for January, 1985.

Appeal
Manitoba Food and Commercial Workers Union vs. Canada Safeway Limited

(Previously reported in the 1983 Annual Report)

Background:

The Manitoba Food and Commercial Workers Union filed a complaint against Canada Safeway Limited alleging that the respondent's "no beards policy" discriminated against male employees who wore beards on the basis of their sex. The matter was investigated and the evidence supported the allegation. Since the investigation revealed that such an onerous grooming policy only applied to male employees, conciliation was attempted, but could not resolve the issue. The Commission requested the Attorney-General appoint a Board of Adjudication to hear and decide the matter and Professor Freda M. Steel was appointed as Adjudicator. Professor Steel delivered her decision on June 6, 1983. She ruled that Safeway's "no beards policy" was discriminatory and she ordered Canada Safeway Limited to rescind the policy requiring male clerks to be clean shaven. In reaching her decision, she concluded that the "no beards policy" imposed a standard of appearance which affected males both on and off the job. She stated that a dress or grooming code must be applied equally to men and women and must not differentiate between the sexes by requiring more from one sex than another. Since the policy constituted an unwarranted intrusion into the personal life of male employees, an intrusion which she noted women were not subjected to, she determined that such a policy constituted differential treatment on the basis of sex. The respondent appealed the Adjudicator's decision to the Court of Queen's Bench.

1984 Update:

The appeal was heard by Mr. Justice Wright of the Queen's Bench who rendered a decision on March 28, 1984 in whch he allowed the appeal. While he agreed that a "no beards policy" was discriminatory on the basis of sex, he concluded that on the facts of this case, the policy was a reasonable occupational qualification in accordance with the exception provided in Section 6(6). He based his finding on evidence of a consumer survey submitted by Canada Safeway showing a customer preference against beards for food clerks.

The commission filed an appeal in the Court of Appeal where it was heard and dismissed through a decision delivered October 17, 1984. The Court held that a "no beards policy" was not discriminatory because of sex. The Commission in reviewing the Court of Appeal's decision, concluded that the learned Court of Appeal failed to consider the discriminatory impact of employment policies based on characteristics that are exclusive to one sex such as beards or pregnancy. The Commission therefore applied for leave to appeal the decision to the Supreme Court of Canada. As of the year's end, the leave to appeal had not been heard.

Appeal
Osborne vs. INCO Limited

(Previously reported in the 1983 Annual Report)

Background:

Mr. Wayne Osborne of Thompson, Manitoba filed a complaint against his employer, INCO Limited, alleging that he had been discriminated against in the terms and conditions of employment by the company because of his religion. The investigations confirmed Mr. Osborne's employment as a driller was terminated because the company refused to accommodate his religious belief which required that he not work from sundown on Friday to sundown on Saturday. Conciliation was attempted but was unsuccessful. The Commission therefore requested the Attorney-General to appoint a Board of Adjudication to hear and decide the complaint.

Mr. Jeffrey J. Oliphant, Q.C., of Dauphin was appointed as Adjudicator. In his decision released August 17, 1983, he ruled that had the company accommodated Mr. Osborne's request for a shift change, it would have resulted in a situation of decreased safety, increased cost and decreased efficiency to the company. As a result, he determined that there had been no contravention of *The Human Rights Act* by the company and dismissed the complaint. The complainant subsequently filed an appeal in the Queen's Bench on his own behalf.

1984 Update:

The appeal was heard by Mr. Justice Kroft at the sittings of the Northern Judicial District in Thompson and a decision was rendered May 25, 1984. The Appellate Judge allowed the appeal. He found that an employer has the duty to make reasonable accommodation for an employee's religious beliefs, provided it does not cause undue hardship on his business. He concluded that the evidence presented by INCO did not support the argument that accommodating Mr. Osborne's religion was impossible without undue hardship.

The respondent filed an Appeal to the Court of Appeal where it was heard and allowed through a decision delivered December 11, 1984. The court restored the judgement of the Adjudicator and held that the evidence clearly established that accommodating Mr. Osborne's religion would have decreased safety, increased costs to the company and decreased efficiency.

Appeal
Loveday vs. Baker Manufacturing Limited

(Previously reported in the 1983 Annual Report)

Background:

Mr. A. Rey Loveday, of Winnipeg, filed a complaint against his employer, Baker Manufacturing Limited, alleging that he had been discriminated against and his employment terminated on the basis of a physical handicap. The investigation showed that Mr. Loveday had worked approximately two months with the respondent company prior to being terminated. The reason given for his termination was because he failed the company medical due to a back injury that he had obtained while working for another employer in 1980. The company had a procedure which required all employees to undergo medical examinations by their family physicians. The examination results were forwarded to the company's head office in the United States for review. In the complainant's case, the medical reports submitted by his doctor to the company revealed that his doctor felt it was advisable that he avoid heavy lifting. The respondent's insurance company did not feel that the complainant could be covered under the group insurance plan because of his previous back injury. Although the company acknowledged that the complainant's work performance during the two month period he was employed was satisfactory and that he had no problem in performing his job requirements, he was nevertheless required to terminate his employment.

The medical opinion secured by the Commission in the course of the investigation contradicted the first opinion by stating that the complainant would be capable of carrying out his original job, considering the absence of very heavy lifting demands and his knowledge of back

mechanics and back protection techniques in the workplace.

Conciliation was attempted but was unsuccessful with the result that the Commission requested the Attorney-General to appoint a Board of Adjudication to hear and decide the complaint.

Mr. Jack Chapman, Q.C. of Winnipeg, was appointed as Adjudicator and hearings were held September 20 and 21 and November 8, 1983.

1984 Update:

Mr. Chapman delivered his decision January 20, 1984. He found that the complainant was prone to suffering back injuries as he had suffered such injuries on at least two previous occasions. He found sufficient medical evidence to indicate that he was not to be involved in heavy lifting which was a requirement of the job. He also found that there could well have been further injuries to his back if he continued to perform his required duties. As such, he concluded that Mr. Loveday's physical handicap rendered him incapable of satisfactorily discharging the duties of the position for which he was hired and that the respondent's termination was not discriminatory in accordance with Section 6(10).

The Commission appealed the decision on the grounds that the Adjudicator was in error by not finding that the employer had the duty to accommodate Mr. Loveday and by not finding that Mr. Loveday had a right to assume the risk of injury to himself as the risk was solely to himself.

The appeal was heard before Mr. Justice Morse of the Queen's Bench on June 26, 1984. Justice Morse ruled that there was no evidence to indicate that the employer could have reasonably done anything to spare Mr. Loveday the task of heavy manual lifting. He agreed with the Adjudicator that the employer should not be required to employ someone whose physical condition subjects him to the risk of more than trivial injury.

Supreme Court of Canada Intervention

Theresa O'Malley & the Ontario Human Rights Commission against Simpson Sears

(Previously reported in the 1983 Annual report)

The Manitoba Human Rights Commission joined the Alberta Human Rights Commission and the Saskatchewan Human Rights Commission in intervening in the matter of Theresa O'Malley against Simpson Sears. Ms. O'Malley filed a complaint based on religious discrimination with the Ontario Human Rights Commission when she was fired for refusing to work on Saturdays. She contended this was against her religion. The matter was heard by a Board of Inquiry in Ontario and subsequently was appealed to the Courts of that province. The Ontario Human Rights Commission asked for leave to appeal the Ontario Court of Appeal Decision to the Supreme Court of Canada. Leave to appeal was heard before The Right Honourable Bora Laskin, then Chief Justice of Canada, Mr. Justice McIntyre and Madam Justice Wilson. In granting leave to appeal the case, the Chief Justice indicated that the court felt that it was a matter of national interest.

1984 Update:

The appeal was scheduled to be heard January 30 and 31, 1985.

Current Boards of Adjudication

The following are matters which were heard by a Board of Adjudication in 1984.

Govereau and Janzen vs. Platy Enterprises Ltd. (Pharos Restaurant)

Allegation:

Tracy Govereau and Diana Janzen, employed as waitresses at Pharos Restaurant, alleged that during their employment, the cook of the restaurant continually harassed them by grabbing and touching their bodies and making lewd comments about their physiology. They alleged that, inspite of their protests, both to the cook and to the owner, the behaviour continued. Tracy Govereau alleged that her hours were reduced and she was ultimately terminated by her employer because she complained to management about the harassment. Diana Janzen alleged she was forced to terminate her employment because of the cook's behaviour towards her. Both women alleged they had been subjected to discriminatory conditions of employment and ultimately terminated because of their sex.

As the investigation results appeared to support the complaints, conciliation was attempted but was unsuccessful. As a result, the Attorney-General was requested to appoint a Board of Adjudication to hear and decide the matter.

Decision:

Mr. Yude Henteleff, Q.C. was appointed as Adjudicator and hearings were held April 2 and 3, and May 31, 1984. By year's end, Mr. Henteleff had not delivered his decision.

Makara vs. Payfair Stores (Mike Zeid)

Allegation:

Cindy Makara, employed as a cashier, alleged she was subjected to sexual harassment by her employer in the form of unwanted and unwelcome touching and that she was continuously pressured by her employer to socialize with him outside the workplace and to grant sexual favours. She alleged that her employment was ultimately terminated because she refused her employer's advances.

Since the investigation results appeared to support the complainant's position, conciliation was attempted but was unsuccessful. The Commission therefore requested the Attorney-General to appoint a Board of Adjudication to hear and decide the complaint.

Decision:

Mr. Yude Henteleff, Q.C. was appointed Adjudicator and hearings were held April 30, and May 1, 1984. At the year's end Mr. Henteleff had not yet delivered his decision.

Ogelski vs. City of Winnipeg (Police Department)

Allegation:

Mr. Edward Ogelski filed a complaint alleging that he was being forced to retire from his position as Deputy Chief with the City of Winnipeg Police Department because of his age based on a City By-law requiring all police officers to retire at age 60. He maintained that his employment should be continued beyond age 60 as his physical and mental health was good and he satisfactorily performed his duties as Deputy Chief.

The investigation results appeared to substantiate the complainant's position. However, since no voluntary settlement could be negotiated, the Attorney-General was requested to appoint a Board of Adjudication to hear and decide the complaint.

Decision:

Mr. Vic Savino was appointed as Adjudicator and hearings were held in September, October and December, 1984. At the year's end, hearings were scheduled to conclude in January of 1985.

Delamare vs. Inter-Mountain School Division No. 36

Allegation:

Mr. William Delamare, who had been driving a school bus for 31 years, filed a complaint alleging that he was terminated from his position of employment as a school bus driver because of his age. He claimed that he met all the standards of physical and mental health and his driving record showed he was a competent driver. However, his employment was terminated on his 65th birthday, in accordance with the School Board's policy of mandatory retirement at that age.

The investigation results appeared to substantiate the complainant's position, but no voluntary settlement could be negotiated. Therefore, the Attorney-General was requested to appoint a Board of Adjudication to hear and decide the complaint.

Decision:

Mr. Aaron Berg of Dauphin was appointed as Adjudicator. Hearings took place on September 6 and 7, 1984 in Dauphin and a decision was rendered November 26, 1984.

Mr. Berg found that the School Board's policy of mandatory retirement at age 65 was discriminatory on the basis of age and that the School Board had failed to show that age was a reasonable occupational qualification for the job of school bus driver. Mr. Berg acknowledged the importance of public safety, but cautioned against using it as a catch phrase in the absence of a proper analysis of an employee's functioning on the job. He accepted the evidence of medical experts who had testified that chronological age was not a reliable indicator of a person's job fitness. He agreed that regular medical examinations were not only preferable but available at minimum cost. He ordered that Mr. Delamare be reinstated and the assessment of monetary damages be referred back to the parties for negotiation.

Soltes, Moxon, Jamieson vs. Samax Investments Ltd. et al

Allegation:

The three complainants filed three separate complaints alleging that Samax Investments Limited had rental practices that discriminated against families with children. Each of the complainants claimed they had applied to rent an apartment suite in a building managed by Samax only to be told they could not rent the suite because of their children.

Ms. Soltes is a single parent who was expecting her child at the time she applied. She alleged that the property management told her they did not want any more children in the building. Mr. Moxon was married and had an infant child, as well as a 13 year old foster daughter. He had wanted to rent in another building and alleged that although his application and deposit had been accepted by the caretaker, he was later rejected because the agency did not want children above the 5th floor. Mr. Jamieson was married with two children, ages 7 and 1. He alleged he was told by the caretaker of yet another building that there was no point in his filling out an application because she was not allowed to rent suites above the basement to families with children.

The investigation appeared to support the complainants' position that they had been denied tenancy because of their family status. Conciliation was attempted but was unsuccessful. The Commission therefore requested the Attorney-General to appoint a Board of Adjudication to hear and decide the complaints.

Decision:

Mr. Robb Tonn of Winnipeg, was appointed as Adjudicator. The complaint was heard November 5, 1984 and a decision rendered December 5, 1984.

Mr. Tonn ruled that Samax had discriminated against Ms. Soltes, Mr. Moxon and Mr. Jamieson because of their family status.

In giving evidence, the Property Manager had admitted that in all three cases, the applicants had been refused because they had children. He said the agency had initiated these policies against children because they were concerned about the noise generated by children and the friends they would bring in the buildings.

However, Mr. Tonn noted that not all families with children who resided in the buildings were noisy and also that there were noise complaints about some families who had no children. He noted that while a landlord could designate certain areas of the block as quiet areas, or establish reasonable rules to maintain noise levels, rental policies based on generalizations that all families with children are noisy, are discriminatory policies. He said such policies discriminate because they ignore the qualifications of individual applicants. He stated that a landlord has an obligation to make an "informed" decision and it is not proper to assume that all families with children will be unacceptably noisy. Indeed, the Respondent had not assessed the complainant's qualifications and did no reference checks regarding their behaviour as tenants.

As remedy, he awarded a total of $736 to the applicants in damages for expenses incurred and injury to their feelings and self respect. In addition, Samax was ordered to refrain from discriminating against families with children in their future rental practices.

Yeo and Richards vs. Canada Packers Ltd. and United Food and Commercial Workers International

Allegations:

Mr. Yeo and Mr. Richards were two long-time employees of Canada Packers who had chosen to continue working beyond the company's normal retirement age of 65. Both were members of the company's national pension plan. After they turned 65, an amendment was agreed to between the company and the union, United Food and Commercial Workers International, which increased pension benefits for active employees. However, the increase did not apply to persons who were over the age of 65 and therefore excluded Richards and Yeo from receiving increased benefits when they retired. They both filed complaints against their employer and their union alleging discrimination because of age.

As the amendments negotiated for the pension plan appeared to exclude all employees over the age of 65, conciliation was attempted, but was unsuccessful. As a result, the Commission requested the Attorney-General to appoint a Board of Adjudication to hear and decide the complaints.

Decision:

Ms. Freda Steel, Associate Dean of Law in Winnipeg, was appointed as Adjudicator. The complaint was heard on February 29 and March 1, 1984 and a decision was rendered September 11, 1984.

Ms. Steel ruled that the intent of the amendment was to exclude certain individuals based on age alone and that, as such, it was discriminatory. Canada Packers had argued that the pension plan was not in violation because the Act recognized that certain differentials based on age could be allowable. However, Ms. Steel noted that the company had presented no evidence to show that age was a necessary differential. She accepted actuarial evidence which showed that the increased benefits could be provided to employees working beyond the normal retirement age without endangering the cost-effectiveness of the plan. She concluded that the age distinction was not necessary for the operation of the plan and therefore the plan could not be exempted from the prohibitions of *The Human Rights Act*.

As a remedy, Ms. Steel ordered that the complainants were entitled to the increased benefits calculated from the date of their actual retirement and included an amount for interest on the past benefits due. The parties agreed on $1570.36 and $4812.21 as sufficient compensation in each case for past benefits due with interest and also agreed that monthly benefits at the higher rate were to begin as of January 1, 1985.

Stevenson and Linklater vs. The Winnipeg Sun and Peter Warren

Allegation:

Chief Louis Stevenson, representing the Peguis Indian Band, and Kenneth Linklater, a private citizen, filed complaints against the Winnipeg Sun and columnist Peter Warren respectively alleging that two columns written by Peter Warren were racist.

The articles entitled "Of Trudeau, Indians and Uncle Toms" and "Let's End This National Disgrace" were written by Peter Warren and published in the Winnipeg Sun. The complainants alleged that the articles in question exposed Native Indians to hatred and indicated discrimination against Native Indians. On reviewing the contents of these articles, the Commission was of the view that they contained words and phrases which negatively stereotyped all Native Indian persons and exposed them to hatred and discrimination.

Settlement with The Winnipeg Sun:

The Winnipeg Sun acknowledged that in light of the perceptions which arose, it was a mistake in judgment to run the columns unabridged and sought to settle the complaint voluntarily without having the matter referred to a Board of Adjudication. In co-operation with the Commission, the Winnipeg Sun and the complainants arrived at a four point program on March 21, 1984:

(1) The Winnipeg Sun agreed to prepare and distribute to its staff written policy guidelines on racial content in consultation with the Human Rights Commission.

(2) The Winnipeg Sun agreed to publish at least three articles on Indian issues dealing with the historical background of the Treaties, the unique constitutional position of status Indians and the present circumstances of status Indians. The articles were published in May, 1984 in consultation with Carroll Hurd, a Consultant to the Peguis Band and Paul Chartrand, Head of the Native Studies Program at the University of Manitoba.

(3) The Winnipeg Sun agreed to meet with the Commission with a view to establishing an Affirmative Action Program for hiring people of Indian origin with a journalism background as reporters.

(4) The Sun agreed to contribute $2,500 to the Winnipeg Foundation to establish a Winnipeg Sun - Peguis Band Journalism Bursary for the education of Indian students in journalism. The award will be available to status Indians from Manitoba and Northwest Ontario, and will be applied to the Creative Communications Course at Red River Community College.

Decision on Complaint Against Peter Warren:

Conciliation was also attempted with Peter Warren, but was unsuccessful. As a result, the Commission requested the Attorney-General to appoint a Board of Adjudication to hear and decide the complaint.

Mr. Jack Chapman, Q.C. of Winnipeg, was appointed as Adjudicator to hear the complaint against Peter Warren. A preliminary motion was heard February 27, 1984 concerning the question of jurisdiction. Counsel for Peter Warren argued that a newspaper article did not fall within the prohibition of Section 2 of the Act. He argued that even if the newpaper article was included, a Board of Adjudication has no jurisdiction because freedom of expression is an absolute right and supercedes any complaint of discrimination.

Mr. Chapman rendered his decision on March 12, 1984 and ruled that he had jurisdiction to proceed. He stated that a newspaper article fell within the prohibition against discriminatory signs and notices and that freedom of expression is not an absolute bar to a complaint of discrimination. He stated that in any complaint alleging discrimination in printed material, the content of the material would have to be assessed on its merit to determine whether or not freedom of expression should prevail.

Mr. Warren appealed the Adjudicator's decision on the question of jurisdiction and the appeal was heard in the Queen's Bench on June 5, 1984 before Justice Morse. Justice Morse ruled that the wording of Section 2 was not broad enough to include newspaper articles and that therefore the Board of Adjudication had no jurisdiction to proceed.

The Commission filed an appeal in the Manitoba Court of Appeal. The appeal was scheduled to be heard in February of 1985.

Brooks vs. Canada Safeway Ltd.

Allegation:

Ms. Brooks, employed as a cashier with Canada Safeway filed a complaint alleging that the employee disability benefit plan provided by the company discriminated on the basis of sex and family status by disqualifying pregnant women from receiving benefits.

She alleged that under the terms of Safeway's disability plan, no benefits are payable to pregnant employees during a seventeen week period commencing ten weeks prior to the expected week of confinement and ending six weeks after the week of confinement. Ms. Brooks experienced pregnancy-related disabilities while working as a cashier and was initially receiving benefits. However, she alleged that seventeen weeks before the expected date of her confinement, her disability benefits ceased. In contrast, she maintained that employees who experienced any other form of disability continued to be eligible for benefits throughout the period of their disability.

Since the investigation revealed an apparent contravention, conciliation was attempted but was unsuccessful. The Commission therefore requested the Attorney-General to appoint a Board of Adjudication to hear and decide the complaint.

Decision:

Mr. J.F. Reeh Taylor, Q.C. was appointed as Adjudicator to hear the complaint. The complaint was heard September 10 and 11, 1984 and a decision rendered October 26, 1984.

Mr. Taylor ruled that the complainant had not filed her complaint within six months of the notification of her ineligibility for benefits and that therefore he had no jurisdiction to deal with the complaint on its merits. However, he went on to state that while the evidence clearly established that there was indeed discrimination against Ms. Brooks under the terms of the disability benefit plan, the discrimination was by reason of her pregnancy and not by reason of her sex or her family status. He noted that pregnancy was not explicitly stated in *The Human Rights Act* as a ground of discrimination and therefore dismissed the complaint.

At year end, hearings had been scheduled with respect to similar complaints filed by two other employees of Canada Safeway. Ms. Allen and Ms. Dixon also alleged that they had been denied disability benefits during the same seventeen-week period of their pregnancies and that this denial constituted discrimination on the basis of sex and family status.

Dakota Ojibway Tribal Council vs. Jean Bewza and Carl Kotyk (Highland Park Motor Lodge, Brandon)

Allegation:

The Dakota Ojibway Tribal Council, a Native organization representing eight Indian bands in Manitoba, alleged that the respondents discriminated against two adult and four teenage Native women while they were guests in the respondents' motel. They alleged the women were discriminated against in the provision of service without reasonable cause because of their race and colour.

The investigation results appeared to confirm that the women were subjected to racially abusive language and treatment in the course of their stay at the motel. Conciliation was therefore attempted but was unsuccessful. As a result, the Commission requested the Attorney-General appoint a Board of Adjudication to hear and decide the matter.

Decision:

Mr. Aaron L. Berg was appointed Adjudicator. The complaint was heard on February 13 to 15, 1984 in Brandon and a decision was delivered on April 27, 1984.

The Adjudicator accepted the evidence of the Native women and concluded that during their stay at the respondents' motel, they were subjected to racially derogatory remarks and discriminatory treatment. When they discovered that rain water had seeped into the back seat of the car, Jackie asked her sister, Angela, to throw down a towel. The two girls were wiping up water when Jean Bewza, the owner, spotted them and demanded the towels be returned. Although the towels were returned immediately, Ms. Bewza accused the teenagers of trying to steal them. Ms. Bewza entered the rooms of the other Native women unannounced and told them to start packing and get out. The witnesses confirmed she shouted abusive language to the teenagers downstairs. An argument ensued between Ms. Bewza and Mary Copenace over the teenagers' behaviour on the

one hand and the quality of the motel on the other. In the course of this exchange, Bewza remarked, "Indians don't need better rooms" and when advised about the lack of hot water, she commented, "Indians don't need to take baths. They like being dirty." She returned to the balcony and yelled racially derogatory remarks to the teenagers. The remarks prompted a physical altercation between Ms. Bewza and Laura Bird, in the course of which Ms. Bird admitted pushing Ms. Bewza towards the door, following which Ms. Bewza swung her cleaning basket at Ms. Bird. The two women were separated by Mr. Kotyk, the other owner. The complainants collected their things, paid their bill and as they drove away, Ms. Bewza shouted further racially abusive remarks at them.

Mr. Berg ruled that although Ms. Bewza initially lost her temper because of the conduct of several of the guests, her decision to require their immediate departure from the premises was motivated by a generalized hostility based upon her perception of the racial and ancestral background of these guests. He also ruled that the guests were subjected to verbal harassment by Ms. Bewza which included racially derogatory comments. He ordered the respondents to pay the four teenagers and Mary Copenace $600 each as exemplary damages. He ordered that Laura Bird be compensated for only $100 in light of her involvement in the assault upon Ms. Bewza. He also ordered the respondent to file a letter of undertaking to abide by the terms of *The Act* in future.

The Adjudicator's decision has been appealed by the respondents to the Court of Queen's Bench. The appeal was heard on September 24, 1984. The ruling on the appeal has not been delivered at the year's end.

Dakota Ojibway Tribal Council vs. Jean Bewza and Carl Kotyk (Highland Park Motor Lodge, Brandon)

Allegation:

The Dakota Ojibway Tribal Council, a Native organization representing eight Indian bands in Manitoba, filed a complaint alleging the respondents denied hotel accommodations to a Mr. and Mrs. Terry Bearchief, a Native couple from Alberta, without reasonable cause and because of their race and colour.

Since the investigation results appeared to confirm the allegation, conciliation was attempted, but was unsuccessful. The Commission therefore requested the Attorney-General appoint a Board of Adjudication to hear and decide the matter.

Decision:

Aaron L. Berg was appointed as Adjudicator and the complaint was heard on February 25, 1984 and March 22, 1984, in Brandon, Manitoba. Mr. Berg delivered his decision on April 27, 1984.

The Adjudicator accepted the evidence of Cindy Chartrand, an employee of the Dakota Ojibway Tribal Council who testified that she telephoned the respondents' Motor Lodge to make a reservation. She was asked for the names of the persons who required the reservation and told them it was for a Mr. and Mrs. Bearchief. She also identified herself and indicated she was with the Dakota Ojibway Tribal Council. She heard some muffled voices at the other end of

the line as though a hand had been placed over the mouthpiece of the telephone. The female representative of the hotel then told her they had no rooms and hung up the telephone.

Ms. Chartrand then phoned the motel back and asked the woman why she did not have a room available when she learned that she was with the Dakota Ojibway Tribal Council. The woman replied that as she was talking, someone came in with a deposit on the last available room for the date in question, and again hung up.

The respondent denied any discrimination against Native Indians. However, according to the respondent's own registration cards, no more than three of the motel's thirty-six rooms were rented at the time the Bearchiefs were refused a reservation. Also, the owner, Ms. Bewza, had remarked to the Investigating Officer that she had a complaint against Native Indian persons because she had once been hit by an Indian. She also remarked that "I don't spend my time on Rosser Avenue collecting welfare".

The Adjudicator found that a prima facie case of discrimination on the basis of race and colour had been established by the Commission which the respondent had failed to refute by showing any just cause for refusing a room reservation for Mr. and Mrs. Bearchief. The Adjudicator ordered the respondent to refrain from any further contraventions of *The Act* and to sign a letter to the Commission confirming their intention to comply with the provisions of *The Act*.

The decision has been appealed by the respondent to the Court of Queen's Bench and the appeal was heard on September 24, 1984. No ruling on the appeal had yet been made as at the year's end.

Appendix B

Sample Cases

The following are provided as some examples of the types of issues that can be the subject of complaints, the types of voluntary settlements that can be achieved, and some reasons for dismissal.

These examples are in no way indicative of the current caseload or the relative numbers of settled and dismissed cases. For an accurate breakdown of cases by areas and grounds of complaint, see Table 7, page 42. For a breakdown of settled and dismissed cases, see Table 8, page 43.

Each complaint is assessed on its own merits and settlements outlined in the following pages should not be considered as representing a particular trend or current norm.

Employment (Hiring)/Sex

Allegation:

The complainant filed a complaint against a metal manufacturing company alleging she was denied employment as a welder because of her sex. Although she had experience and training as a welder, the female applicant complained she was not given any opportunity to demonstrate her skills and was told the work was not for a woman.

Investigation:

Information discovered in the course of the investigation revealed the complainant's application was handled in a differential manner by the respondent. All other welders with the company were male and were tested as to their welding skills when applying. The complainant, however, was not tested; nor was there any examination of her qualifications. In fact, the investigation showed that the respondent refused to even accept her application for the position. The respondent stated they had no washroom for a woman in the shop and, in their opinion, the manner of work involved was not suitable for a woman because of the heavy lifting. However, they admitted they had not assessed the complainant's ability to do the lifting. A male applicant who applied several days later was alternatively employed as a welder and continued working for several months.

Settlement:

The investigation substantiated the complainant's position that she was denied equal consideration solely because of her sex. Attempts to conciliate the matter voluntarily failed and as a result the Commission requested the Attorney-General appoint a Board of Adjudication to hear and decide the complaint. Prior to the hearing date, the respondent agreed to compensate the complainant for part of the damages sought. The matter was resolved upon the agreement that the respondent would compensate the complainant $3,000 in three payments. This settlement was confirmed in a consent order by the Adjudicator without a hearing.

Employment (Hiring)/Sex

Allegation:

The complainant, a female nurses aide, filed a complaint alleging she had been denied the opportunity to be considered for a nurses aide position in spite of her 20 years experience in the field, because of her sex.

Investigation:

The investigation revealed that the complainant had observed an advertisement in the newspaper for a position of orderly at a Winnipeg nursing home. She was told on the telephone that the position was not available for women. The respondent admitted their preference for a male orderly. They indicated that they currently employed 57 orderlies of which 51 were women. However, several older male residents had indicated a preference for hospital staff of their own sex for assisting them in personal hygienic functions. The current complement of male orderlies was not sufficient to meet the personal privacy needs of these patients and they therefore wished to hire a male orderly.

Settlement:

The Commission determined that, in these circumstances, the requirement that the employee be a male person was a reasonable occupational qualification. The Commission therefore dismissed the complaint as being an allowable exception under Section 6(6) in the particular circumstances. However, the decision was limited to the filling of that position only and would not necessarily apply to future hirings.

Employment (Hiring)/Family Status (Relative)

Allegation:

The complainant filed a complaint against a Winnipeg manufacturing company who she alleged refused to hire her because of her family status. She had previously been employed with the respondent, reapplied for a job vacancy, and was rejected because she had a sister currently working in the company. The woman, a single parent mother, alleged she suffered continued unemployment as a result.

Investigation:

Investigation revealed that the company's application form requested if the applicant had any relatives working with the company and the complainant had answered affirmatively, providing her sister's name. Investigation also revealed that despite the complainant's satisfactory work history, she was advised by the foreman in the presence of a witness that company policy would not permit her re-employment.

Settlement:

As the evidence appeared to support the complaint, attempts were made to resolve the matter voluntarily. However, no resolution could be reached. As a result, the Commission requested the Attorney-General appoint a Board of Adjudication to hear and decide the matter. A Board of Adjudication was appointed, but prior to the hearing, the respondent agreed to a voluntary settlement of $1,600 as compensation to the Complainant for lost wages and damages. In addition, the application form and company policy were revised to ensure that applicants were assessed on individual merit. The complainant indicated her satisfaction with this settlement, and on that basis the Commission closed the case as settled.

Employment (Conditions)/Sex

Allegation:

The complainant, a female employee of a cafeteria, alleged that female employees in her department were not allowed to wear pants with their uniform as were male employees working in the same section. She filed a complaint alleging that female employees were therefore subjected to discriminatory terms and conditions of employment because of their sex.

Investigation:

The investigation revealed that female employees had previously been allowed to wear pants under their smocks, but that a new dress code policy required them to wear a dress type uniform with panty hose only. Pants under the uniform were prohibited for women. In contrast, male employees in the cafeteria and kitchen were issued a pant and tunic uniform, both of which were supplied by the respondent.

The complainant indicated she found panty hose itchy and uncomfortable, and skirts embarassing when bending or lifting. When she and several co-workers wore pants under their new uniforms, they were sent home for not complying with the dress code regulations. The respondent indicated that the dress code policy was introduced because the cost of supplying pants to female employees was prohibitive.

Settlement:

Because the evidence confirmed that the effect of the dress code policy was more onerous on female employees than on male employees, the respondent was invited to consider a voluntary settlement. The employer agreed to allow women in the cafeteria and kitchen to purchase and wear their own pants under the uniform, providing they met the respondent's standard of colour, design and cleanliness. The change in policy was confirmed in writing and sanctioned by the union representing the female employees in the cafeteria. The complainant and respondent both indicated their satisfaction with this resolution and on this basis the Commission closed the filed as settled.

Employment (Conditions)/Ethnic or National Origin (French Canadian)

Allegation:

The complainant, a French Canadian woman, filed a complaint alleging that her employment as a part time waitress was terminated because of her French Canadian accent. She alleged this was discriminatory on the basis of her ethnic or national origin.

Investigation:

The investigation confirmed that she was terminated after only nine hours of employment. The complainant acknowledged that she did have an accent and was not perfectly bilingual, but claimed that she had had no difficulties with customers, had done a conscientious job and that her accent was a hindrance only in the eyes of her supervisor. The investigation revealed that the supervisor was terminated shortly after the complainant's termination and no other employee or manager had any recollection of the complainant as she had only worked a few short shifts prior to her termination. However, management acknowledged that the supervisor had wrongly dismissed the individual and took responsibility for his actions.

As the complainant had worked in a restaurant previously, her previous employer was contacted. While he acknowledged that she occasionally had difficulty with English as her second language, he described her as extremely conscientious and a very quick learner. He did not feel that her accent had interfered with her ability to do her job as a waitress.

Settlement:

The respondent acknowledged that although they had neither been aware nor condoned the supervisor's actions, they were responsible for the supervisor's actions and apologized to the complainant for the hardship she had suffered. In addition, they offered to pay her $100 in damages and to provide a letter of future compliance to the Commission stating that they would abide by the provisions of ***The Human Rights Act*** in future. Since all parties were satisfied with this resolution, the Commission closed the file as settled.

Employment (Terms and Conditions)/Sex (Harassment)

Allegation:

The complainant, an Order Desk Clerk, at an equipment rental agency, filed a complaint against her employer alleging that for three years she was sexually harassed by a male co-worker. She said that he grabbed and touched various parts of her body and that when she discussed the matter with her employer, he did not take appropriate corrective action but subsequently terminated her.

Investigation:

The investigation confirmed that the complainant was subjected to physical contact of a sexual nature by her co-worker. The respondent did not deny that some touching had occurred and other co-workers indicated that the complainant clearly objected to being touched. Evidence also indicated that the complainant's immediate supervisor was aware of the harassment and took no action until the complainant threatened to quit her job.

Settlement:

Since the complainant's allegations appeared to be substantiated by the evidence, attempts were made to settle this complaint. However, conciliation was unsuccessful and the Commission therefore requested the Attorney General to appoint a Board of Adjudication. Before the matter could be heard, the respondent agreed to pay the complainant $1100 compensation for lost wages and hurt feelings and to provide a letter of apology and a declaration of future compliance. Since all parties were satisfied with this resolution, the Commission closed the file as settled.

Employment (Terms and Conditions)/Sex

Allegation:

The complainant, a Property Manager for a Winnipeg firm, filed a complaint that a male employee of the same firm performing the same job description as herself, was being paid a higher salary. She alleged that when she made known her concern to the employer, he was unwilling to rectify the situation, resulting in the complainant terminating her employment.

Investigation:

The investigation showed that the complainant had worked for the respondent for thirteen years, the last four of which she had functioned as Property Manager. In the last month of her employment, an additional male rental agent had been hired at a salary that was $1,800 more per annum than that paid to the complainant. Although the respondent maintained that his qualifications were superior and his responsibilities greater, the investigation revealed that their qualifications were comparable and the job duties substantially the same.

Settlement:

The evidence appeared to substantiate that the primary factor accounting for the differential in salary paid was the sex of the employee. As a result, an attempt was made to voluntarily settle the complaint. The respondent agreed to compensate the complainant for lost wages calculated from the date of the appointment of the new employee to the date of the complainant's termination and also to compensate her for damages for injury to her feelings and self respect. The total payment agreed upon was $725. As all parties indicated satisfaction with these terms of settlement, the case was closed as settled.

Employment (Termination)/Physical and Mental Handicap

Allegation:

The complainant, a northern resident, filed a complaint alleging that her employment was terminated because of her physical/mental handicap. The complainant advised she was suffering from depression and had been advised by her doctor to take two weeks off from work.

Investigation:

The investigation revealed that the complainant was a long-term employee who appeared to have contributed significantly to low staff morale, arising from her frequent clashes with management. Co-workers described the complainant as moody, argumentative and creating tension between people in the workplace. However, the respondent had accommodated her temperament until one day, following an argument, she left the workplace without giving any reasons or without telling any of the staff. The respondent indicated that "walking off her job" in this manner was the cause for her termination. Co-workers confirmed the complainant's negative impact on working conditions and indicated that morale had improved significantly since she left. The investigation also confirmed that employees who had requested leave for medical reasons were given time off. However, there was no evidence that the complainant had requested leave before walking off her job.

Disposition:

As there was no evidence to show that the complainant's employment was terminated because of her illness, the Commission dismissed the complaint as being without merit.

Employment (Termination)/Age (65)

Allegation:

The complainant, a 65 year old insurance employee, filed a complaint against his employer alleging that he had been discriminated against when he was forcibly retired at age 65. He alleged that his request for an extension was denied solely because of his age.

Investigation:

The investigation determined that the respondent had an employment policy which stated that: "Retirement will be effective on the date of the last day of the final pay period in the month in which the employee reaches age sixty-five".

The complainant had previously requested, and was allowed, an extension of employment but only for a one year period following which the retirement policy was invoked.

Although the respondent maintained that the complainant's health was declining and that he was incapable of handling his job, his personnel records and performance appraisals did not support these claims. The complainant had worked for the company for more than ten years and his performance was overall deemed satisfactory.

Settlement:

Conciliation was initiated as the evidence appeared to support that age was the reason for termination. The respondent agreed to revise its corporate policy on retirement so that employees would not be mandatorily retired because of age. The respondent also provided the complainant with financial compensation in the amount of $16,000 for lost wages and severance pay.

Employment (Termination)/Physical Handicap (Back Injury)

Allegation:

The complainant, an orderly in a residential health facility, filed a complaint alleging that his employment was terminated because of a physical handicap (back injury).

Investigation:

The investigation established that the complainant had worked as an orderly for two consecutive summers. His performance was deemed sufficiently good to have him hired as a permanent full-time employee. While still on probation, he suffered an injury to his back while lifting a patient. His chiropractor wrote a report to his employer indicating that his back injury was chronic and therefore should be given light duties only. The employer took the position that the complainant could not be accommodated as they had no light duties to assign him to. Therefore, since the complainant was on probation, the respondent used his less than ideal medical condition as cause for termination. The investigation also established that the complainant's back condition was indeed temporary only. However, the employer had made no attempt to contact the chiropractor for any clarification of the initial report to determine the complainant's recovery period or the nature of light duties he would require. The investigation also revealed that permanent employees who suffered an injury had in the past been previously accommodated by being given lighter duties and the respondent could similarly have accommodated the complainant for the period of his recovery.

Settlement:

As the evidence appeared to establish that the complainant was terminated because of his physical handicap, conciliation was initiated. The respondent agreed to reinstate the complainant to his former position of employment with no loss of seniority or benefits. At the time the complainant had been terminated, his probation period was about to have been concluded. His reinstatement was therefore at the final stage of probation and the complainant successfully passed his probationary period.

Employment (Termination)/Sex and Family Status (Pregnancy)

Allegation:

The complainant alleged she was terminated from her position as a clerk in a shoe repair store because she was pregnant. She filed a complaint alleging discrimination based on her sex and family status.

Investigation:

The investigation revealed that the complainant's work performance was generally satisfactory. Although the respondent initially indicated some concerns about her work, they admitted pregnancy was the reason she was terminated. They stated their intention was to protect her as well as protect their business. They were afraid that if she got hurt at work, they would be responsible and it could cost them money. As a result, they decided it would be better for her, as well as their business, if she stayed at home and got proper rest while collecting unemployment insurance. However, the investigation revealed, and the respondent acknowledged, that there was nothing dangerous in the area where she worked, and she could still perform her duties satisfactorily despite her pregnancy.

Settlement

Since the evidence confirmed she was terminated because of pregnancy, conciliation was initiated. The employer agreed to reinstate the complainant in her former position and pay her $350 compensation for wages lost. The complainant indicated her satisfaction with this resolution, and therefore the Commission closed the case as settled.

Employment (Promotion)/Sex

Allegation:

The complainant, a female part-time service clerk in a large supermarket, filed a complaint alleging that she was denied an opportunity to "cross-over" to a part-time food clerk position because of her sex. She alleged that the positions of services clerks were traditionally filled by women and food clerks traditionally filled by men and that she had been denied the opportunity for promotion to the higher paying male classification because she was a woman.

Investigation:

The investigation revealed that the complainant had worked for the respondent for approximately five years as a part-time employee, during which time her work performance was satisfactory. The respondent denied the allegations and stated that the complainant had not indicated an interest in a food clerk position and that in any event there had been no food clerk vacancies. However, the investigation revealed that the complainant had written a letter to the respondent indicating her interest in crossing over to a food clerk position. Also, while the respondent was denying the cross-over of the complainant, it continued to hire male food clerks from outside the company. The respondent maintained that it was necessary to hire food clerks from the outside to avoid additional company time and money required to train a new person every time a vacancy is created. An analysis of the respondent's work force revealed that although the company employed both males and females in both service clerk and food clerk classifications, the large majority of service clerks were females and very few were food clerks. The respondent also acknowledged that there had never been a cross-over of part-time service clerks to food clerk positions.

Settlement:

The evidence appeared to substantiate the non-availability of cross-overs from the primarily female classification of service clerk to the primarily male classification of food clerk. Arising out of the complaint, the respondent agreed voluntarily to settle the matter and revise their policy to allow service clerks the opportunity to transfer to food clerk positions based on seniority and ability, regardless of sex. The complainant was invited to cross-over to a

food clerk classification. As she had enrolled in several university courses at the time, the respondent agreed to hold open a position for her on completion of her university session. The complainant indicated her satisfaction with this resolution and the Commission closed the file as settled.

Employment (Denial)/Family Status

Allegation:

The complainant, a female northern resident, filed a complaint alleging that she had been denied employment, after being advised that she was hired, because she had a sister already employed at the same workplace. She alleged she had been denied employment because of her family status.

Investigation:

The investigation revealed that the complainant had applied for a position with the respondent company, and had been advised that she was hired. Because the complainant was already employed, she was instructed by the respondent to give her notice of termination where she was employed. The complainant gave her notice to her employer as instructed. The investigation also confirmed that shortly before she was to begin work for her new employer, she was advised that they could not hire her because she had a sister already employed at the same workplace. However, the investigation revealed that there would not be any real or apparent conflict of interest. The complainant would not have been working with her sister, nor would either of them have any authority over the other. As a result of the respondent's actions, the complainant found herself unemployed since the position which she had given up had already been filled.

Settlement:

Since discrimination appeared to be the cause of the complainant's termination, the Commission proceeded with conciliation. As a result, the respondent agreed to pay the complainant $860 for lost wages and $100 for general damages. The respondent also provided the Commission with a written assurance that future employment decisions would be made without consideration of a person's family status. Since all parties agreed to these terms, the Commission closed the file as settled.

Housing/Race, Colour, Source of Income

Allegation:

The complainant, a Native Indian woman, filed a complaint alleging that she and her husband were refused rental of an apartment suite because of their race and colour and their source of income.

Investigation:

The investigation established that the complainant, a University student, was seeking housing accommodations for herself and her husband. The complainant viewed the respondent's suite which was advertised as available for rent and she completed an application for rent provided by the caretaker. On the form, she indicated that their source of income was student allowance from the Department of Indian Affairs and that she had previously been living with her brother to whom she had paid board and room. She submitted her application to the rental agent and was interviewed by the owner of the rental agency.

During the investigation, she alleged that the rental agent asked her if she had "any problems" and then explained that a lot of people have "big, wild parties". She replied that she and her husband did not drink and that her brother, who drank on occasions, kept to himself when he did and would not come to their residence. She alleged the rental agent indicated he could not be sure the brother would not create a disturbance and then questioned whether she knew how to care for a suite or be a responsible tenant. When she indicated that she did, he finally advised he could not rent to her because she had too many problems. When she began to cry at this accusation, the respondent told her that her crying proved she was guilty.

The respondent disputed the events of the interview and maintained that she was refused rental because she could not provide a rental reference from a previous landlord other than a relative. However, the investigation revealed the suite was ultimately rented to a non-Native single parent on social assistance. The successful tenant also could not provide a previous rental reference, as she too had lived with relatives. However, her application for tenancy was accepted. She indicated that during

her interview, she was not asked whether she had any problems, whether there was drinking in her family, or whether she could care for a suite.

Settlement:

Since the investigation estabished differential treatment in the rental procedure and since certain stereotype assumptions appeared to have been made about the complainant because of her race and colour, attempts were made to conciliate the complaint. Initially, the respondent refused to settle, so the Commission requested the Attorney-General to appoint a Board of Adjudication to hear and decide the complaint. However, prior to a hearing, the respondent offered to provide the complainant with an apology, a payment of $150 as compensation for injury to her feelings and self respect, and a declaration of future compliance. Since the complainant agreed to accept this offer, the Commission closed the file as settled to the satisfaction of the parties.

Housing/Source of Income (Student Scholarship)

Allegation:

The complainant, a graduate student at the University of Manitoba, filed a complaint alleging that she was denied a housing accommodation because she was a student.

Investigation:

The investigation revealed that the complainant had received a research scholarship in the amount of $10,000. The complainant did not have any rental history as she had been living with her family at home, but she had personal and character references. The scholarship was her only source of income.

The respondent stated the reason the complainant was denied rent was because of inadequate information on her rent application from about her source of income and her rental history. However, the respondent did not check the complainant's references nor did he attempt to confirm her stated source of income. He admitted that he chose another female applicant because she was gainfully employed.

Settlement:

The investigation substantiated that the complainant's student status and income from a source other than employment were the reasons for her rejection. Therefore, conciliation was initiated.

The respondent apologized to the complainant for denying her an apartment and extended her an invitation to apply for a rental apartment anytime in the future. The respondent also gave the Commission an assurance in writing that he will not discriminate against persons in a housing accommodation based on their source of income. As the complainant was satisfied with this resolution, the case was closed as settled.

Housing/Mental Handicap

Allegation:

The complainant was employed with a community organization which assists in the rehabilitation of mentally handicapped persons. She filed a complaint alleging that a Winnipeg home owner refused the right to occupancy of an apartment to two persons because of their mental handicap.

Investigation:

The investigation determined that the complainant and three colleagues observed an apartment rental sign in the window, requested permission of the owner to view the apartment, and explained to the owner that the tenants would be two mentally handicapped persons whom their organization deemed able to establish independent residence. The investigation also revealed that the home owner refused the complainant permission to view the apartment on the basis that she would not rent to mentally handicapped persons. The respondent admitted this to the Enforcement Officer and reiterated her intent to refuse to rent to mentally handicapped persons.

Settlement:

The investigation substantiated the complaint and conciliation was commenced. The complainant requested as settlement that the respondent provide the Commission with a written declaration of compliance, stating that she would not refuse to rent to mentally handicapped persons in the future. The respondent provided this declaration, and in view of the satisfaction of both parties, the Commission closed the case as settled.

Services/Family Status, Marital Status

Allegation:

The complainant, a resident of a northern community, filed a complaint against a local merchant in the community alleging that she had been denied credit because of her family status, marital status and without reasonable cause. The complainant advised that she was denied because her common-law spouse had an unpaid debt with the respondent which he had incurred some years earlier before they had co-habited.

Investigation:

The investigation revealed that the complainant, a working female, had applied for credit with the respondent, but had been denied because of an unpaid debt owed to the respondent by the complainant's common-law spouse. It was also revealed that the respondent had no set policy regarding granting of credit.

Settlement:

Since the investigation revealed that the respondent had denied credit to the complainant for discriminatory reasons, conciliation was initiated. The respondent agreed to invite the complainant to reapply for credit and that any decision on the granting of credit would be based on the complainant's references. The respondent also gave a written assurance that in the future any policy or decision on the granting of credit would be consistent with Human Rights legislation. As all parties indicated satisfaction with these terms, the Commission closed the file as settled.

Services/Sex

Allegation:

Several complainants who were sole support fathers filed complaints alleging they were denied social assistance from the Province of Manitoba solely because of their sex, which assistance they claimed was not denied for sole support mothers.

Investigation:

The investigation established that social assistance was consistently denied to sole support fathers. In doing so, the Department of Community Services and Corrections and the Social Services Advisory Committee (Welfare Appeal Board) were relying on provisions of *The Social Allowances Act* which specifically stated that social allowance was to be provided to mothers with dependent children who lacked basic necessities and who had been deserted by their husband for more than ninety days; or whose husband had been sentenced or imprisoned for more than ninety days; or who had never been married; or who had been separated or divorced for more than ninety days. No similar provisions for social allowance existed to fathers with dependent children, who lacked basic necessities in similar circumstances.

Settlement:

In view of the apparent conflict with *The Human Rights Act*, conciliation was initiated with the Government of Manitoba, through the Ministry of Community Services and Corrections to have the offending provisions of *The Social Allowances Act* amended. The Government introduced a bill to amend the legislation such that any sole support parent with dependent children who lacked the basic necessities shall be paid social allowance regardless of the parent's sex, if she/he is deserted or living separate and apart from her/his spouse for more than ninety days, or if the spouse of the person is serving a prison term for more than ninety days; or if the person is not married or is divorced. The bill was passed in the 1984 legislative session and will be proclaimed in April 1985.

Services/Sex

Allegation:

The complainant, who had recently given birth to a child, filed a complaint alleging that the current practice of registering the birth of a child was discriminatory on the basis of sex. She alleged that she attempted to register the child in her maiden surname which she had retained on her marriage, but was advised that she to register the child in her spouse's surname.

Investigation:

The investigation established that *The Vital Statistics Act* of Manitoba required that the birth of a child of a married woman shall be registered showing the surname of the husband as the surname of the child. No similar provision existed to allow registration in the surname of the mother of the child.

Settlement:

The Vital Statistics Act was apparently in conflict with *The Human Rights Act* by clearly favouring the father in the registration of the birth of a child. The Commission therefore requested that the Government of Manitoba, through the Ministry of Community Services and Corrections, to amend *The Vital Statistics Act*. As a result, amendments to *The Vital Statistics Act* were approved and proclaimed. The amendments now give parents a choice in the surname under which a child may be registered without preference based on the sex of the parent. Parents now have the option of using the surname of the husband, the surname of the mother, or both surnames combined or hyphenated. As the amendments are not retroactive, children registered prior to the amendments are required to go through the change of name process if the parents wish to have them registered in the surname of the mother or a combined or hyphenated surname.

Services/Physical Handicap (Blindness)

Allegation:

The complainant, a blind woman who relies on a dog guide, filed a complaint alleging she was denied access to a local lounge cabaret because of her reliance on a dog guide.

Investigation:

The investigation revealed that the complainant was a visitor to Winnipeg attending a Human Rights Conference. She advised the hostess of the provisions of *The Human Rights Act* which provide access to premises for a blind person accompanied by a dog guide. After some debate, the Manager of the lounge was called who subsequently arranged access for the complainant and her dog.

Settlement:

Since the evidence confirmed that the complainant was initially denied access because of her dog guide, the parties agreed that a letter of apology to the complainant and an educational seminar for Management on human rights provisions, would be a satisfactory resolution of the complaint. A letter of apology was issued to the complainant and a seminar was conducted by the Human Rights Commission for 15 executives and department heads of the international hotel chain, following which the file was closed as settled.

Services/Marital Status, Family Status

Allegation:

The complainant, a recently married woman, filed a complaint against a major department store alleging that she had been denied the opportunity to purchase clothing by personalized cheque for reasons based on her marital status and family status.

Investigation:

The respondent store acknowledged that they had refused to accept the complainant's cheque because of her husband. The investigation revealed that the complainant's husband had written an NSF cheque five or six years previously. Because of this, his name was put in the store's "black binder", and the complainant's cheque was also refused because she was married to him. However, the investigation also revealed that the complainant had a personalized chequing account; her credit rating was good; and she had written cheques to the store previously without any problems. The investigation confirmed that the complainant was denied the opportunity to pay by cheque solely because of her husband, despite her own reliable credit rating.

Settlement:

Since the evidence supported the complaint, the Commission initiated conciliation. The respondent agreed to issue an apology to the complainant and invite her for a free meal at the store. In addition, the store's "black binder" was amended and staff instructed to avoid similar situations from occurring in the future.

Services/Marital Status, Source of Income, Sex

Allegation:

The complainant, a male person, filed a complaint alleging that he and his wife were denied a mortgage loan to buy a home without reasonable cause and because of their sex, marital status, and source of income. He alleged that their application was refused on the grounds that his wife's income could only be used to supplement his income and was not acceptable as primary income from a career.

Investigation:

The investigation determined that the complainant was unemployed and his source of income was unemployment insurance benefits. He called the respondent by telephone for a mortgage loan naming his wife as a primary applicant. His wife had been working for 2 years as a clerk making about $10,400 per annum. They had planned to purchase $25,000 home. The investigation confirmed that the complainant was told that in determining their eligibility, his wife's income would have to be "discounted" as her employment was not considered as a career.

Settlement:

Although the complainant appeared to not meet the income requirements to qualify for a loan, the practice of discounting a woman's income based on the nature of her employment appeared contrary to the Act and became a subject of conciliation.

The respondent company agreed to provide a written assurance that it will consider all applicants for a mortgage loan without regard to their sex and will not be concerned with whether or not the primary wage earner is female or male. The respondent also assured the complainant and the Commission that it will review an applicant's ability to repay the loan on an individual basis and assess if they have sufficient income to handle the debt load and determine the applicant's employment stability. As all parties were satisfied with this resolution, the case was closed as settled.

Signs and Notices/Religion

Allegation:

Three complainants filed a total of 18 complaints alleging the distribution of 12 different documents constituted a contravention of *The Human Rights Act*. They alleged that the documents, ranging from handwritten graffiti over printed matter to lengthy editorials, exposed or tended to expose Roman Catholics to hatred because of their religion or an intention to discriminate against Roman Catholics.

Investigation:

The investigation revealed that some of the documents complained of were local graffiti, while others were published outside Canada and were available through a distributor located in Toronto. Two individuals from Manitoba had ordered them and were distributing them locally, in one case through the mail to church leaders and politicians and in the other case, by posting the material in various public places. The individuals maintained that they were "Selected by God" to distribute these documents, not for the purpose of exposing Catholics to hatred or discrimination, but for the purpose of converting Roman Catholics from Catholicism. The documents complained of were obtained and the messages conveyed in each document were carefully examined as to their meaning and effect on the "average reasonable person".

Disposition:

In reviewing the content of these documents, the Commission determined that, although the documents were critical of the Roman Catholic Church as an institution, the effect of these messages on the average reasonable person would not induce hatred or discrimination against Roman Catholic people. As such, the Commission did not feel that an interference with the right to freedom of expression was justified and therefore dismissed the complaints. The Commission, however is concerned about the offensive nature of such materials and in their communications to the public through the media, has continued to urge citizens to use good judgment in dismissing such material from serious consideration.

Reprisal

Allegation:

The complainant had been employed as a general parks helper on a seasonal basis. In 1982 she had filed a complaint alleging that she was not called back to work because of her sex. Her complaint had been settled voluntarily by the respondent agreeing to offer her employment on condition that she discontinue her Union grievance and withdraw her complaint of discrimination. Following an agreement on these terms of settlement, the respondent provided employment for the complainant and within one month dismissed her. The complainant alleged that her termination was a reprisal for her having filed a complaint with the Commission.

Investigation:

The investigation established that the complainant was given employment as an office clerk in another department, a position for which she had no experience and at which her failure was forseeable.

Settlement:

The respondent acknowledged responsibility for her placement in an area in which she had no prior experience and therefore agreed to offer her a position in an area for which she was clearly qualified. The complainant accepted the position. As the resolution was satisfactory to both parties, the Commission closed the file as settled.

APPENDIX C
TABLE 1

Total Intake Load Received 1980 — 1984

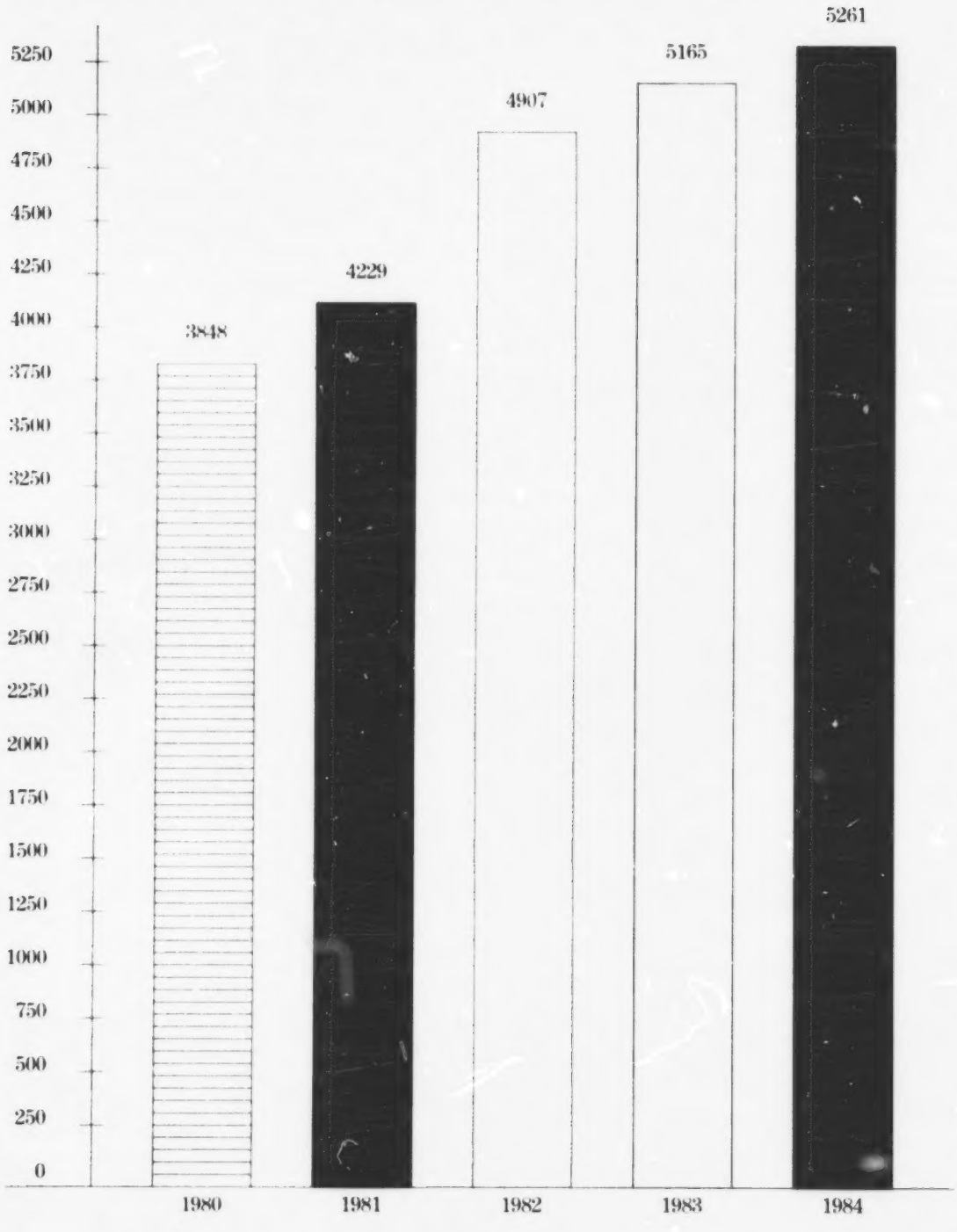


TABLE 2

Combined Intake Activities 1980 - 1984

	1980	1981	1982	1983	1984
Inquiries:	2183	2670	3019	2913	3211
Referrals:	1269	1155	1367	1713	1564
Complaints:	396	404	521	539	486
	3848	4229	4907	5165	5261

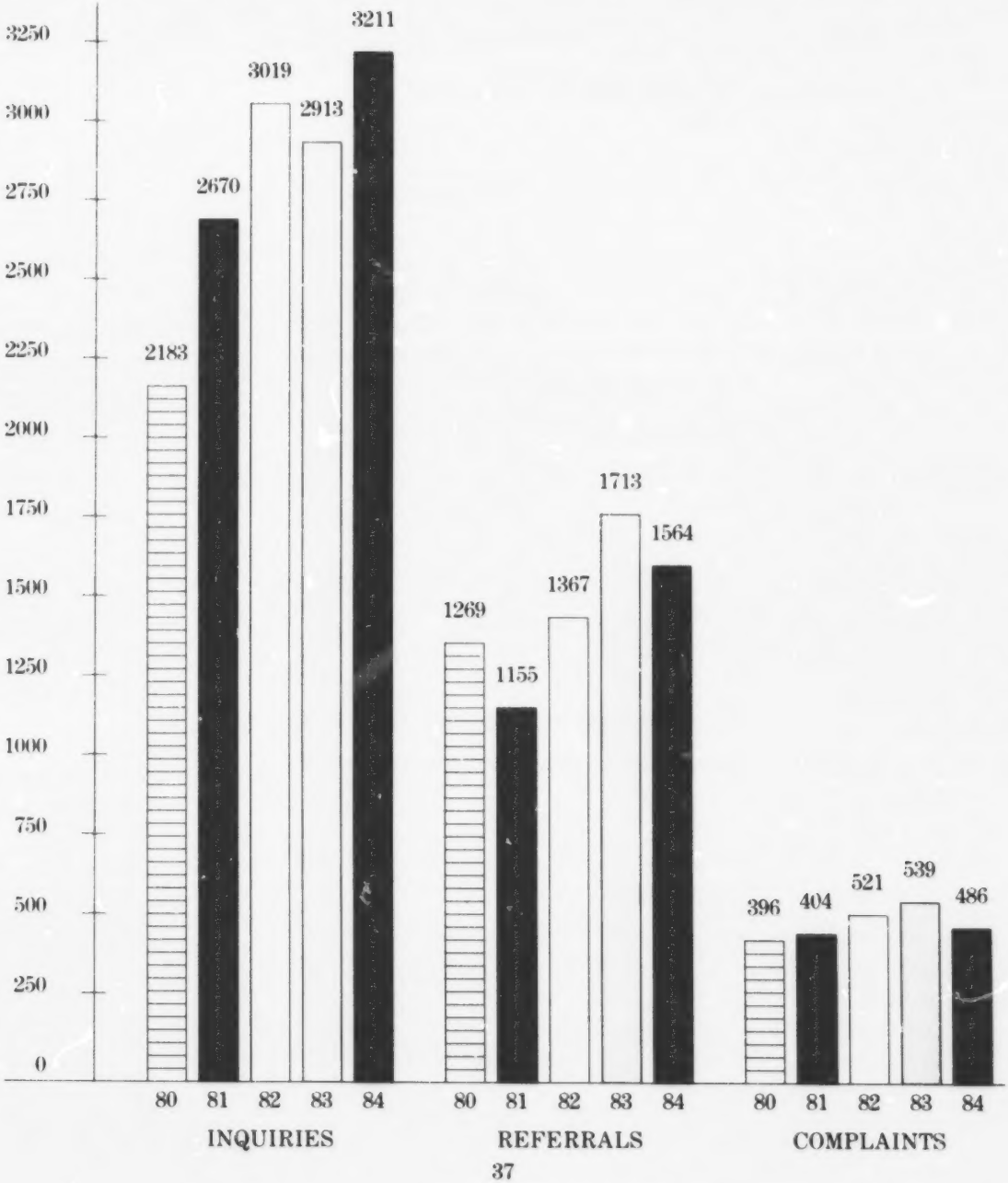


TABLE 3

Breakdown of Cases by Statutory Categories:

(Percentage of total cases received in 1984)

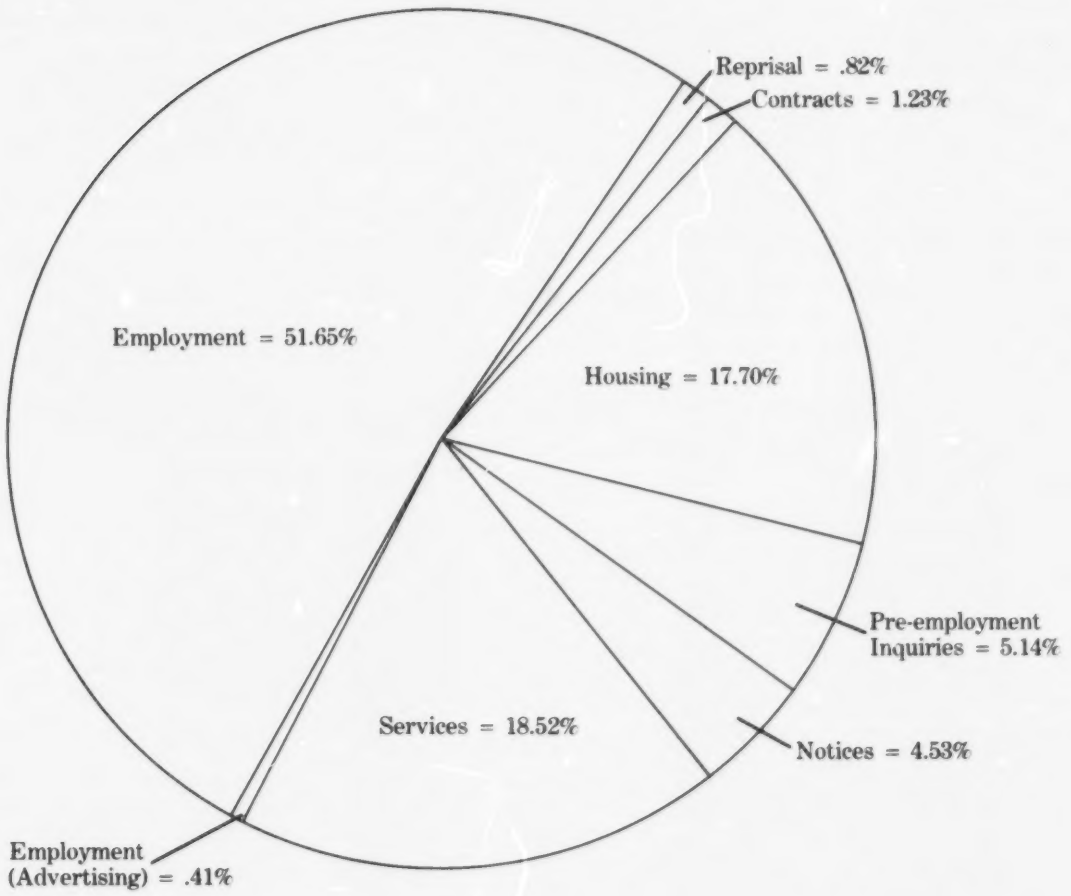


TABLE 4

Breakdown of Cases Received by Statutory Categories 1981 - 1984

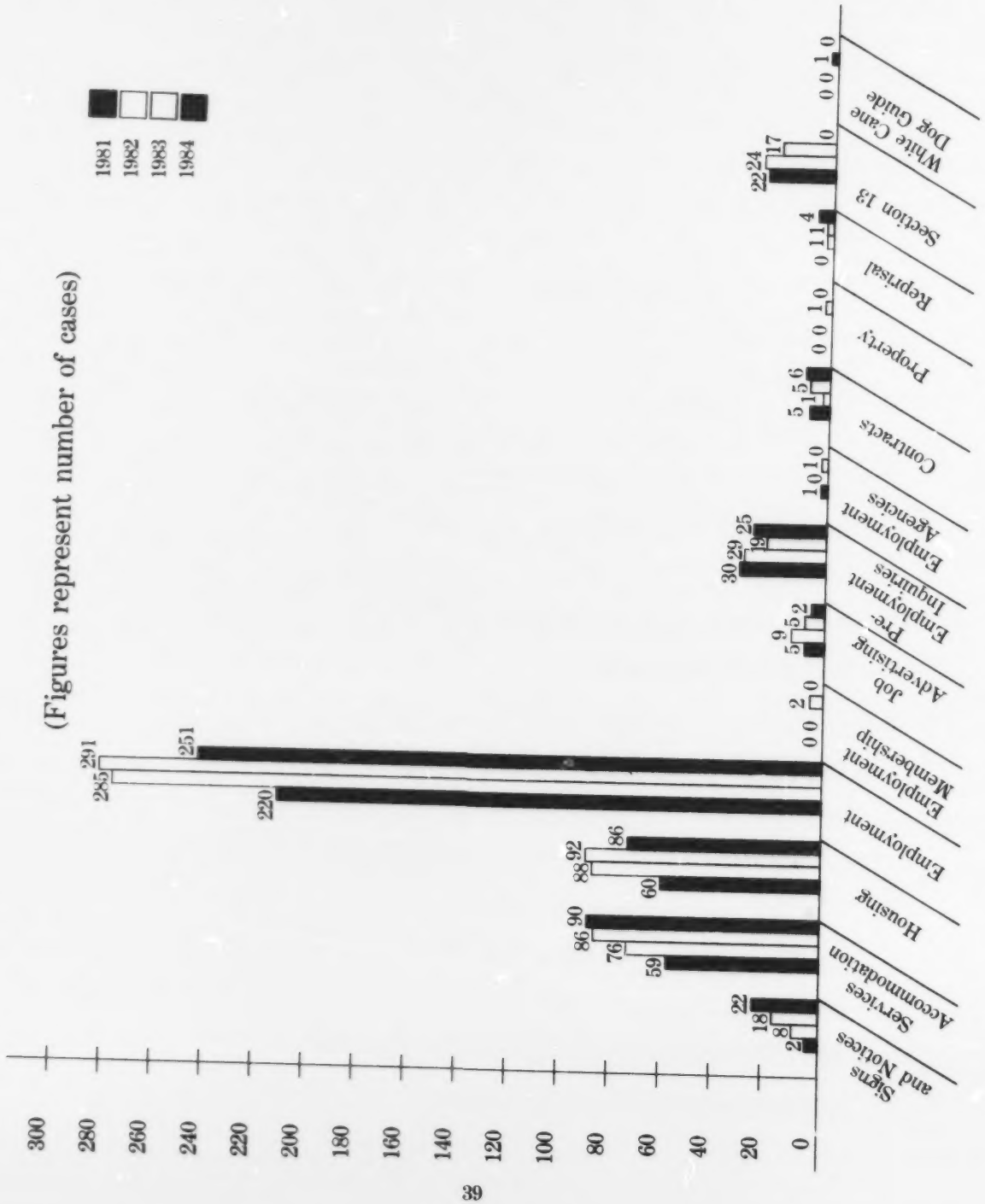


TABLE 5

Breakdown of Cases Received by Grounds of Complaint:

(Percentage of the total grounds of complaints received in 1984)

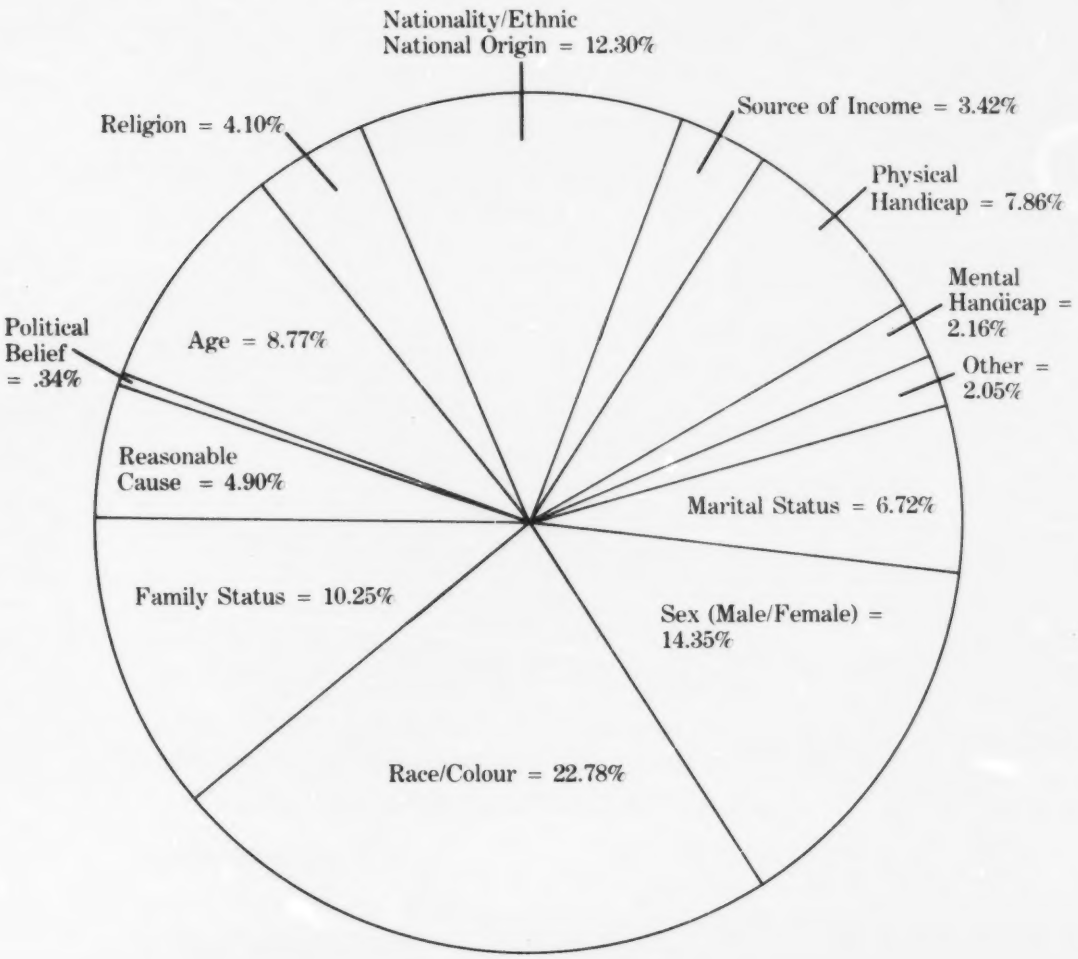


TABLE 6

Breakdown of Cases Received by Grounds of Complaint 1981 - 1984

TABLE 7

Manitoba Human Rights Commission 1984 Year End Report

Breakdown of Cases Received by Statutory Categories and Grounds

	Race	Nationality	Religion	Colour	Sex		Marital Status	Family Status	Age	Ethnic, National Origin	Source of Income	Political Belief	Reasonable Cause	Physical Handicap	Mental Handicap	Other	TOTAL
					Male	Female											
Notices	1	2	20							2							25
Services	25	1	4	17	3	3	10	7	17	20	5	1	26	14	2	2	157
Housing	20	1	2	20	7	6	16	20	10	18	25		9	4	2	2	162
Property																	
Employment	58	8	8	53	14	70	17	44	34	51		1	8	43	9	7	425
Membership																	
Advertising						2											2
Pre-employment Inquiries	2	2	2	2	8	8	16	16	16	3		1		7	5	5	93
Employment Agencies																	
Contracts						4		3						1	1		9
White Cane-Dog Guide																	
Reprisal	1			1		1										2	5
Section 13																	
TOTAL	107	14	36	93	32	94	59	90	77	94	30	3	43	69	19	18	878

**This is an inflated figure as the total cases for 1984 were 486. The reason the figure is higher here is that many cases have more than one ground of discrimination.*

TOTAL CASELOAD — 486

TABLE 8

Manitoba Human Rights Commission
1984 Year End Caseload Report

	Brought Forward	New Cases	Settled	Dismissed	Complaint Withdrawn	Section 13 Resolved	Not Pursued	Referred To Board Prosecution	Undisposed
Notices	7	22		18			4	2	5
Services	56	90	19	14	2		31	2	78
Housing	37	86	11	18	4		38	4	48
Property	1								1
Employment	190	251	23	99	8		86	22	203
Membership	1						1		0
Advertising	1	2	3						0
Pre-employment Inquiries	9	25	11				2		21
Employment Agencies	1								1
Contracts	4	6		4				1	5
White Cane-Dog Guide									
Reprisal	1	4	1						4
Section 13	9					9			0
TOTAL	317	486	68	153	14	9	162	31	366

TABLE 9

Distribution of Complaints Received

By Geographical Location

Brandon Region (Winnipeg Office)

Brandon	26
Cardale	1
Dauphin	6
Hartney	1
Riding Mountain	1
Souris	1
Waskada	1
	37

The Pas Office

The Pas	15
Flin Flon	6
Gillam	1
Leaf Rapids	2
Lynn Lake	1
Moose Lake	1
North West Territories	1
Thompson	8
	35

Winnipeg Office

Winnipeg	379
Ashern	1
Big Black River	1
Carman	3
Gimli	1
Hecla Island	2
Ile Des Chenes	1
La Salle	1
Lac Du Bonnet	1
Lorette	2
Manigotogan	2
Miami	1
Morris	3
Point du Bois	1
Portage la Prairie	2
St. Annes	1
St. Claude	1
St. Francois Xavier	1
St. Laurent	1
Selkirk	5
Steinbach	3
Tolstoi	1
	414

Total = 486

TABLE 10

Boards of Adjudication and Appeals

Brought forward from previous year	18
Cases referred to adjudication in 1984	14
TOTAL	32

Disposition:

Resolved, no hearing	7
Finding of discrimination	7
Dismissed, no contravention	2
Proceedings completed in 1984	16

Cases Pending:

Boards of Adjudication	10
Decisions under appeal:	
Court of Queen's Bench	4
Court of Appeal	1
Requested leave to appeal to Supreme Court	1
TOTAL	16

Appendix D
The Commissioners

Claudia Wright — Chairperson (effective June 1984)

Claudia Wright, B.A., M.A., Ph.D, is a professor of Political Science at the University of Winnipeg. She is Associate Dean of Arts and Science, Personnel. Claudia Wright is active in many organizations that are involved in human rights issues. She also has academic interests that complement her commitment to civic education and participation.

Marek Debicki — Vice-Chairperson (effective September 1984)

Marek Debicki is a member of several civil rights organizations. He teaches civil rights at the University of Manitoba.

Hélène Bulger

Hélène Bulger is a resident of St. Boniface, having been born and educated there. She served five years on the Board of the Caisse Populaire Précieux Sang, two years as President, and is currently a Board member of the Center Culturel Franco-Manitobain. She is past co-ordinator of the French Cultural Display and has been active in the past on a number of committees relating to Franco-Manitoban community activities.

Joy M. Cooper — (joined Commission June 1984)

Joy Cooper is a Winnipeg lawyer and a former policy planner with the provincial government. She has been active in many community organizations, such as the Age and Opportunity Centre Inc., Klinic, the Manitoba Association of Women and the Law, and is currently Vice-Chairperson of the Family Law Subsection of the Manitoba Bar Association.

Wayne Courchene

Wayne Courchene, born in Pine Falls, Manitoba, was schooled at the Fort Alexander Indian Residential School on the reserve until he migrated to Winnipeg in 1962 where he graduated from high school. He graduated from the University of Manitoba, and is currently a volunteer on a number of community organizations, such as the Winnipeg Indian and Metis Friendship Centre and the Manitoba Association for Rights and Liberties. Mr. Courchene is presently working for the Assembly of Manitoba Chiefs in an organization called "The All Chiefs' Budget Committee". He is Co-ordinator of a training program that is carried out in conjuction with the Budget Committee and New Careers. He was recently elected to the Urban Indian Association Board, a new Indian organization representing status Indians of urban Winnipeg.

Jim Eagle — (joined the Commission June 1984)

Jim Eagle was born and raised in Timberton, Manitoba (Valley River Indian Reserve) and attended the Pine Creek Indian Residential School. He enlisted in the Canadian Armed Forces in 1953. Since his retirement from the Forces in 1975, he has become very involved with the Native movement. He was employed for one and one-half years as the Provincial Co-ordinator of the Manitoba Association of Friendship Centres and has held the position of Executive Director of the Thompson Friendship Centre since 1981. He resigned his position with the Provincial Rent Regulation Bureau in order to take up his appointment as Human Rights Commissioner in June 1984.

Unni Hordern

Unni Hordern is a physiotherapist and clinical instructor at the Brandon General Hospital. She has lived in Brandon since 1971. She has been a member of the Boards of the Children's Aid Society and the Westbran Work Activity Program. She is very active in the Canadian Physiotherapy Association.

Don King — (joined Commission June 1984)

Don King is a community worker with the City of Winnipeg and a labour activist participating in numerous committees within the Manitoba Federation of Labour, Winnipeg Labour Council and his own Canadian Union of Public Employees Local 500. He holds a Bachelor of Arts degree from the University of Winnipeg and M.A. level studies at the University of Manitoba. Don King is also an active participant and supporter of the Latin American Solidarity Movement and the Canadian Women's Movement.

John Lane

John Lane is a resident of Winnipeg. Trained as an engineer, he has been employed in a variety of fields and is currently the Executive Director of the Canadian Paraplegic Association (Manitoba Division). He is physically disabled with quadraplegia due to a spinal cord injury sustained in 1968.

Jill Oliver

Jill Oliver came to Canada from England in 1957. She resided in Winnipeg from 1962 to 1969 when she moved to Prince Edward Island. She returned to Winnipeg in 1972 to study political science at the University of Winnipeg. She received her law degree from the University of Manitoba in 1977 and was called to the Manitoba Bar in 1978. Ms. Oliver has practiced law in Winnipeg since 1978. She has been active in the women's movement since 1973. She is currently a Bencher with the Law Society of Manitoba and a member of the Executive of Family Services Canada.

Mario Jorge Santos — (joined Commission June 1984)

Mario Jorge Santos is a member of several ethnic organizations in Winnipeg. He is currently Chairperson of the Winnipeg School Board.

Mario B. Sosa — (joined Commission June 1984)

Mario B. Sosa is employed with the Community Education Development Agency (CEDA). He attended the Catholic University in Buenos Aires, Argentina and the University of Manitoba. Mario Sosa is a member of various cultural and community groups and is dedicated to the course of human rights for minorities.

APPENDIX E

THE HUMAN RIGHTS ACT

being

CHAPTER H175

of the

CONTINUING CONSOLIDATION OF
THE STATUTES OF MANITOBA

OFFICE CONSOLIDATION

NOTICE

All persons making use of this consolidation are reminded that it has no legislative sanction; that the amendments have been embodied only for convenience of reference; and that the original Act should be consulted for all purposes of interpreting and applying the law.

Printed by the Queen's Printer for the Province of Manitoba
JANUARY, 1984

CHAPTER H175

THE HUMAN RIGHTS ACT.

(Assented to June 14, 1974)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

Definitions.

1 In this Act

(a) "blind person" means a person who

(i) is registered as a blind person with The Canadian National Institute for the Blind, a corporation incorporated under the Canada Corporations Act and continued under the Canada Business Corporations Act, or

(ii) is in receipt of an allowance on account of blindness under the Blind Persons Allowances Act or the Blind Persons Act (Canada), or

(iii) having been in receipt of an allowance on account of blindness under the Acts mentioned in sub-clause (ii), is in receipt of a pension under the Old Age Security Act (Canada) and is still blind within the meaning of the Acts mentioned in sub-clause (ii) and regulations made thereunder;

En. S.M. 1982, c. 23, s. 1.

(a.1) "commercial unit" means any building, or other structure or part thereof that is used or occupied or is intended, arranged or designed to be used or occupied for the manufacture, sale, resale, processing, reprocessing, displaying, storing, handling, garaging or distribution of personal property, or any space that is used or occupied or is intended, arranged or designed to be used or occupied as a separate business or professional unit or office or meeting room in any building or other structure or in a part thereof;

En. S.M. 1982 c. 23, s. 1; Am. S.M. 1984, c. 17, s. 13(1).

(b) "Commission" means the Manitoba Human Rights Commission;

(b.1) "dog guide" means a dog which serves as a dog guide or leader for a blind person and has been especially trained for the purpose;

En. S.M. 1982, c. 23, s. 2.

(c) "employers' organization" means an organization of employers formed for purposes that include the regulation of relations between employers and employees;

(d) "employment agency" includes a person who undertakes with or without compensation to procure employees and a person who undertakes with or without compensation to procure employment for persons;

(d.1) "family status" for the purpose of this Act includes the status of an unmarried person or parent, a widow or widower or that of a person who is divorced or separated or the status of the children, dependants, or members of the family of a person;

En. S.M. 1976, c. 48, s. 1.

(e) "housing accommodation" means any place of dwelling, except a place of dwelling that is part of a building in which the owner or his family or both, reside where the occupants of the place of dwelling are required to share

(i) a bathroom or kitchen facility, or

(ii) a common entrance, except in a duplex, apartment building or condominium,

with the owner of the dwelling or his family or both;

En. S.M. 1978, c. 43, s. 1.

(f) "minister" means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;

(g) "national origin" includes the national origin of an ancestor;

(h) "occupational association" means any organization, other than a trade union or employers' organization, in which membership is a prerequisite or from which licensing or certification is necessary, to carrying on a trade, occupation or profession;

(i) "person" in addition to the extended meaning given it by The Interpretation Act, includes an employment agency, and employers' organization, a trade union, an occupational association, and a class of persons;

(i.1) "physical or mental handicap" means a disability, infirmity, malformation or disfigurement whether of a physical or mental nature that is caused by injury, birth defect or illness and includes but is not limited to epilepsy, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a dog guide, wheelchair or other remedial appliance or device;

En. S.M. 1982, c. 23, s. 3.

(j) "trade union" means an organization of employees formed for purposes that include the regulation of relations between employees and employers;

(k) "wages" includes pay, salary, remuneration, lost benefits, out-of-pocket expenses and interest thereon;

(l) "white cane" means a cane or walking stick all of which or the major portion of which is white.

En. S.M. 1982, c. 23, s. 4.

S.M. 1974, c. 65, s. 1; Am. S.M. 1976, c. 48, s. 1; S.M. 1977, c. 46, s. 1; S.M. 1978, c. 43, s. 1; S.M. 1982, c. 23, ss. 1-4; S.M. 1984, c. 17, s. 13(1).

PART I

PROHIBITED DISCRIMINATORY PRACTICES

Discrimination prohibited in notices, signs, etc.

2(1) No person shall

(a) publish, display, transmit or broadcast, or cause to be published, displayed, transmitted or broadcast; or

(b) permit to be published, displayed, broadcast or transmitted to the public, on lands or premises, in a newspaper, through television or radio or telephone, or by means of any other medium which he owns or controls;

any notice, sign, symbol, emblem or other representation

(c) indicating discrimination or intention to discriminate against a person; or

(d) exposing or tending to expose a person to hatred;

because of the race, nationality, religion, colour, sex, marital status, physical or mental handicap, age, source of income, family status, ethnic or national origin of that person.

Am. S.M. 1976, c. 48, s. 2; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 5.

Exception as to matters of opinion.

2(2) Nothing in subsection (1) shall be deemed to interfere with the free expression of opinion upon any subject.

Exception.

2(3) Subsection (1) does not apply to the display of a notice, sign, symbol, emblem or other representation displayed to identify facilities customarily used by one sex.

S.M. 1974, c. 65, s. 2; Am. S.M. 1976, c. 48, s. 2; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 5.

Discrimination prohibited in accommodation, service, etc.

3(1) No person shall

(a) deny to any person or class of persons any accommodation, service, facility, goods, right, licence or privilege available to the public or to a section of the public; or

(b) discriminate against any person or class of persons with respect to any accommodation, service, facility, goods, right, licence or privilege available to the public or to a section of the public;

unless reasonable cause exists for the denial or discrimination.

En. S.M. 1982, c. 23, s. 6; Am. S.M. 1982-83-84, c. 93, s. 15.

Things that do not constitute reasonable cause.

3(2) For the purposes of subsection (1), the race, nationality, religion, colour, sex, age, marital status, family status, physical or mental handicap, or ethnic or national origin of a person does not constitute reasonable cause unless the Commission is satisfied after considering the facts of the particular situation that a denial or discrimination on such grounds is justified in that particular situation.

En. S.M. 1982, c. 23, s. 6.

Definition.

3(3) For the purposes of subsection (1), the expression "accommodation, service, facility, goods, right, licence or privilege available to the public or to a section of the public" includes, without restricting the generality of that expression, any benefit provided and any activity or undertaking carried out, by Her Majesty in the right of Manitoba, the Government of Manitoba, any municipal corporation or educational institution in Manitoba, any board or commission created by or subject in this regard to the laws of Manitoba, or by any of their agents or servants.

En. S.M. 1982, c. 23, s. 6.

Exception for person under the age of majority.

3(4) Nothing in subsection (1) prevents the denial or refusal of any accommodation, service, facility, goods, right, licence or privilege to a person who has not attained the age of majority if the denial or refusal is in accordance with any law or regulation in force in Manitoba.

En. S.M. 1982, c. 23, s. 6.
Am. S.M. 1982-83-84, c. 93, s. 15.

Discrimination prohibited in occupancy of commercial unit or housing accommodation.

4(1) No person, directly or indirectly, alone or with another, by himself or by the interposition of another, shall

(a) deny to any person or any member of his family, the right to occupancy of any commercial unit or any housing accommodation; or

(b) discriminate against any person or any member of his family with respect to any term or condition of occupancy of any commercial unit or housing accommodation,

unless reasonable cause exists for the denial or discrimination.

En. S.M. 1976, c. 48, s. 4.

Things that do not constitute reasonable cause.

4(2) For the purposes of subsection (1), the race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, family status, ethnic or national origin, or the source of income of a person does not constitute reasonable cause.

En. S.M. 1976, c. 48, s. 4; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 7.

Accommodation may be restricted on basis of sex.

4(3) Notwithstanding subsections (1) and (2), occupancy of all the housing accommodation in a building, except that of the owner or his family, may be restricted to individuals of the same sex.

En. S.M. 1976, c. 48, s. 4.

Preference for elderly persons.

4(4) Nothing in subsection (1) prevents a person from giving preference to elderly persons of housing accommodation in any building that is designed or used primarily for elderly persons.

En. S.M. 1976, c. 48, s. 4.
En. S.M. 1976, c. 48, s. 4; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 7.

Discrimination prohibited in the purchase of property.

5 No person shall

(a) deny to any person the opportunity to purchase any commercial unit or housing accommodation that is advertised or in any way represented as being available for sale; or

(b) deny to any person the opportunity to purchase or otherwise acquire land or an interest in land that is advertised or in any way represented as being available for sale; or

(c) discriminate against any person with respect to any term or condition of the purchase or other acquisition of any commercial unit, housing accommodation, land or interest in land that is advertised or in any way represented as being available for sale;

because of the race, nationality, religion, colour, sex, age, marital status, family status, physical or mental handicap, ethnic or national origin of that person.

S.M. 1974, c. 65, s. 5; Am. S.M. 1976, c. 48, s. 5; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 8.

Discrimination prohibited in employment.

6(1) Every person has the right of equality of opportunity based upon bona fide qualifications in respect of his occupation or employment or in respect of training for employment or in respect of an intended occupation, employment, advancement or promotion, and in respect of his membership or intended membership in a trade union, employers' organization or occupational association; and, without limiting the generality of the foregoing

(a) no employer or person acting on behalf of an employer, shall refuse to employ, or to continue to employ or to train the person for employment or to advance or promote that person, or discriminate against that person in respect of employment or any term or condition of employment;

(b) no employment agency shall refuse to refer a person for employment, or for training for employment, and

(c) no trade union, employers' organization or occupational association shall refuse membership to, expel, suspend or otherwise discriminate against that person; or negotiate, on behalf of that person, an agreement that would discriminate against him;

because of race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, ethnic or national origin, or political beliefs or family status of that person.

Am. S.M. 1976, c. 48, s. 6; Am. S.M. 1977, c. 46, ss. 2 & 3; S.M. 1982, c. 23, s. 9.

Discrimination prohibited in advertising.

6(2) No employer shall publish, display, circulate or broadcast or cause or permit to be published, displayed, circulated or broadcast, any words, symbol or other representation that indicate directly or indirectly that race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, ethnic or national origin, or political belief or family status is or may be a limitation, specification or preference for a position of employment.

Am. S.M. 1976, c. 48, s. 7; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 10.

Discrimination prohibited in advertising on behalf of an employer.

6(3) No person shall publish, display, circulate or broadcast or cause or permit to be published, displayed, circulated or broadcast any advertisement for a position of employment for or on behalf of an employer

(a) that contains any words, symbol, or other representation; or

(b) that is under a classification or heading;

indicating directly or indirectly that race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, ethnic or national origin, or political belief or family status is or may be a limitation, specification or preference for the position of employment.

Am. S.M. 1976, c. 48, s. 8; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 11.

Pre-employment inquiries.

6(4) No person shall use or circulate any form of application for employment or make any written or oral inquiry that expresses either directly or indirectly any limitation, specification or preference as to race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, ethnic or national origin, or political belief or family status of any person or that requires an applicant for employment to furnish any information concerning those particulars.

Am. S.M. 1976, c. 48, s. 9; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 12.

Employment agencies.

6(5) No employment agency shall discriminate against any person because of race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, ethnic or national origin, or political belief or family status in receiving, classifying, disposing of or otherwise acting upon applications for its service or in referring an applicant for employment to an employer or anyone acting on behalf of the employer.

Am. S.M. 1976, c. 48, s. 10; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 13.

Exception.

6(6) The provisions of this section relating to any discrimination, limitation, specification or preference for a position or employment based on sex, age, marital status, family status, physical or mental handicap, or political belief, do not apply, where

(a) sex, age, marital status, family status, or political belief, is a reasonable occupational qualification; or

(b) physical or mental handicap is a reasonable disqualification.

En. S.M. 1982, c. 23, s. 14.

Exception.

6(7) The provisions of this section relating to a limitation or preference in employment do not apply to an exclusively religious, philanthropic, educational, fraternal or social organization that is not operated for private profit and is operated primarily to foster the welfare of a group or class of persons characterized by a common race, nationality, religion, colour, sex, age, marital status, family status, physical or mental handicap, ethnic or national origin, where, in any such case, one or more of the above enumerated criteria is a bona fide occupational qualification and requirement.

Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 15.

6(8) Repealed. S.M. 1982, c. 23, s. 16.

Exception for persons under the age of majority.

6(9) Nothing in this section prevents a person from limiting the employment of a person under the age of majority or from classifying or referring to a person under the age of majority for employment in accordance with the provisions of any provincial law regulating the employment of persons under the age of majority.

Exception for physical or mental handicap.

6(10) The provisions of this section prohibiting the discrimination against a person for a position or employment by reason of the physical or mental handicap of the person do not apply where the nature and extent of the handicap reasonably precludes or renders the person incapable of satisfactorily discharging the duties of that position.

En. S.M. 1977, c. 46, s. 4; Am. S.M. 1982, c. 23, s. 17.

Handicapped persons with training and experience.

6(11) Notwithstanding subsection (10), no person shall refuse to employ a person who is physically or mentally handicapped, if the person has adequate training and experience and is qualified and capable to carry out the duties and functions of the position.

En. S.M. 1977, c. 46, s. 4; Am. S.M. 1982, c. 23, s. 18.

S.M. 1974, c. 65, s. 6; Am. S.M. 1976, c. 48, ss. 6-10; Am. S.M. 1977, c. 46, ss. 2-4; S.M. 1982, c. 23, ss. 9-18.

Discrimination prohibited in contracts.

7(1) No person shall, in making available to any person, a contract that is offered to the public generally,

(a) discriminate against any person; or

(b) include terms or conditions in any such contract that discriminate against a person;

on the basis of race, nationality, religion, colour, sex, age, marital status, family status, physical or mental handicap, ethnic or national origin of that person.

Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 19.

Exception.

7(2) No provision of section 6 or subsection (1) shall prohibit a distinction on the basis of age, sex, family status, physical or mental handicap or marital status

(a) of any employee benefit plan or in any contract which provides an employee benefit plan, if the Commission is satisfied on the basis of the guidelines set out in the regulations that the distinction is not discriminatory or that the employee benefit can be provided only if the distinction is permitted; or

(b) in any contract which provides life insurance, accident and sickness insurance or a life annuity to a specified person where the contract is not part of an employee benefit plan, if the Commission is satisfied on the basis of guidelines set out in the regulations that the distinction is not discriminatory or that the insurance or annuity can be provided only if the distinction is permitted.

En. S.M. 1976, c. 48, s. 11; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 20.

Automobile insurance contracts not affected.

7(3) Nothing in this Act prohibits a distinction on the basis of sex, age or marital status in any contract of automobile insurance offered or made available to the public under The Manitoba Public Insurance Corporation Act or The Insurance Act.

En. S.M. 1978, c. 43, s. 2.

S.M. 1974, c. 65, s. 7; Am. S.M. 1976, c. 48, s. 11; S.M. 1977, c. 46, s. 2; S.M. 1978, c. 43, s. 2; S.M. 1982, c. 23, ss. 19 & 20.

Restriction on use of white cane.

7.1(1) No person other than a blind person shall carry or use a white cane on any highway or public thoroughfare, or in any public conveyance or other public place.

En. S.M. 1982, c. 23, s. 21.

Dog guides to accompany blind persons.

7.1(2) Notwithstanding any enactment, regulation, or by-law, a dog guide

(a) while accompanying a blind person; and

(b) while in the custody and under the control of a blind person

may, without charge, enter and remain with the blind person in any place where the public is admitted, or facility, or conveyance, where the public is accommodated.

En. S.M. 1982, c. 23, s. 21

Discrimination, etc., prohibited for taking part in proceeding under Act.

8 No person shall

(a) refuse to employ or continue to employ any person;

(b) threaten to dismiss or threaten to penalize in any way any person in regard to his employment or any term or condition thereof;

(c) discriminate against any person in regard to his employment or any term or condition thereof; or

(d) intimidate or coerce or impose any pecuniary or other penalty upon any person;

on the ground that such person,

(e) has made or may make a complaint under this Act;

(f) has made or may make a disclosure concerning the matter complained of;

(g) has testified or may testify in a proceeding under this Act, or

(h) has participated or may participate in any other way in a proceeding under this Act.

S.M. 1974, c. 65, s. 8; Am. S.M. 1975, c. 42, s. 26.

Special programs.

9 Notwithstanding the provisions of this Part, the Commission may, upon such conditions or limitations and subject to revocation or suspension, approve in writing a special plan or program by the Crown, any agency thereof, or any person designed to promote the socio-economic welfare and equality in status of a disadvantaged class of persons defined by race, nationality, religion, colour, sex, marital status, physical or mental handicap, family status, age, source of income or ethnic or national origin of the members of that class of persons.

En. S.M. 1978, c. 43, s. 3; Am. S.M. 1982, c. 23, s. 22.

PART II

ADMINISTRATION

Manitoba Human Rights Commission established.

10(1) There is hereby established a commission to be called: "The Manitoba Human Rights Commission".

Composition.

10(2) The Commission shall be composed of such numbers of persons as may be determined from time to time by the Lieutenant Governor in Council.

Members.

10(3) The members of the Commission shall be appointed by the Lieutenant Governor in Council.

Chairperson.

10(4) The Lieutenant Governor in Council shall designate one of the members as chairperson and one member as vice-chairperson.

Vacancies.

10(5) The Lieutenant Governor in Council may fill any vacancy however created, in the membership of the Commission.

Remuneration and term of office.

10(6) The Lieutenant Governor in Council may determine the term of office and the remuneration of the members of the Commission.

S.M. 1974, c. 65, s. 10.

Responsibility.

11 The Commission is responsible to the minister for the administration of this Act.

S.M. 1974, c. 65, s. 11.

Members of Commission continued in office.

12 Those persons, who on the coming into force of this Act are members of the Commission, shall continue to hold office until their successors are appointed.

S.M. 1974, c. 65, s. 12.

Function.

13 The Commission has power to administer this Act and without limiting the generality of the foregoing, it is the function of the Commission,

(a) to forward the principle that every person is free and equal in dignity and rights without regard to race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, ethnic or national origin, political beliefs, family status or source of income;

(b) to promote an understanding of, acceptance of and compliance with this Act;

(c) to develop and conduct educational programs designed to eliminate discriminatory practices related to race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, ethnic or national origin, political beliefs, family status or source of income;

(d) to disseminate knowledge and promote understanding of the civil and legal rights of residents of the province and to conduct educational programs in that respect;

(e) to further the principle of equality of opportunities and equality in the exercise of civil and legal rights regardless of status.

S.M. 1974, c. 65, s. 13; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 23.

Employment of personnel.

14 An executive director and such other officers and employees as may be required for te purpose of the administration of this Act, may be employed under The Civil Service Act.

S.M. 1974, c. 65, s. 14.

Responsibility of the executive director.

15 The executive director of the Commission, in addition to such other duties, that he may be required to perform by law, shall

(a) be responsible to the Commission for its day-to-day activities and operations; and

(b) act as registrar of complaints received by the Commission to assure that they are dealt with according to the Act.

S.M. 1974, c. 65, s. 15.

Confidentiality of information.

16 Except for the purposes of a prosecution under this Act, or proceedings before a board of adjudication, or in any court proceedings, or for the purpose of the administration and enforcement of this Act, no person shall, except with the consent of the commission

(a) knowingly communicate, or allow to be communicated, to any person any information obtained by or on behalf of the commission or the Executive Director under this Act; or

(b) knowingly allow any person to inspect, or to have access to, any copy of any book, record, document, file, correspondence or other record obtained by, or on behalf of, the commission or the Executive Director under this Act.

En. S.M. 1976, c. 48, s. 12.

Costs of administration.

17 The costs of administering this Act shall be paid from and out of the Consolidated Fund with moneys authorized by an Act of the Legislature to be so paid and applied.

S.M. 1974, c. 65, s. 17.

Annual report.

18(1) The Commission shall prepare annually and submit to the minister, a report of the activities of the Commission and boards of adjudication during the preceding year.

Am. S.M. 1976, c. 48, s. 13.

Annual report.

18(2) The minister shall lay forthwith the report before the Legislative Assembly if it is in session and if not, with 15 days of the commencement of the next ensuing session.

S.M. 1974, c. 65, s. 18; Am. S.M. 1976, c. 48, s. 13.

PART III

ENFORCEMENT OF ACT

Complaints.

19(1) Any person who has reasonable grounds for believing that any person has contravened a provision of this Act, may file with the Commission a complaint in the form prescribed by the Commission, such complaint to be filed with the Commission not later than 6 months after the date of the alleged contravention or, where a continuing contravention is alleged, after the date of the last alleged contravention of this Act.

Consent of offended person.

19(2) Where a complaint is made by a person other than the person whom it is alleged was dealt with contrary to the provisions of this Act, the Commission may refuse to file the complaint unless the person alleged to be offended against consents thereto.

Complaints initiated by Commission.

19(3) Where the Commission has reason for believing that any person has contravened a provision of this Act in respect of a person or group of persons, the Commission may initiate a complaint.

S.M. 1974, c. 65, s. 19.

Commission may dismiss complaint.

19(4) Where the Commission is satisfied that a complaint is without merit, it may dismiss the complaint at any stage of the proceeding.

En. S.M. 1978, c. 43, s. 4.
S.M. 1974, c. 65, s. 19; Am. S.M. 1978, c. 43, s. 4.

Investigation of complaint.

20 The Commission shall, as soon as is reasonably possible, investigate any complaint of an alleged contravention of the Act.

S.M. 1974, c. 65, s. 20; Am. S.M. 1976, c. 48, s. 14.

Powers of commission after investigation.

21(1) The commission, after investigating the complaint, may

(a) endeavour to effect a settlement of the complaint of an alleged contravention of the Act, and failing settlement of the complaint, the commission may request the minister to appoint a board of adjudication to hear and decide the complaint; or

(b) request the minister to appoint a board of adjudication to hear and decide the complaint; or

(c) recommend that the minister commence a prosecution for an offence under this Act.

En. S.M. 1976, c. 48, s. 15.

Appointment of board.

21(2) The minister shall, within a reasonable time after the receipt of a request under clause (1)(a) or (b) appoint a board of adjudication consisting of one or more persons to hear and decide the compalint.

En. S.M. 1976, c. 48, s. 15.

Prohibition.

21(3) No person appointed to a board of adjudication shall have taken part in any investigation or consideration of the complaint prior to the inquiry by a board of adjudication.

En. S.M. 1976, c. 48, s. 15.

Powers of Commission and board of adjudication.

22 The Commission and any board of adjudication appointed under this Act may determine their procedure and each member of a board of adjudication has all the powers of a commissioner under Part V of The Manitoba Evidence Act, and Part V excepting section 88 of that Act, applies to any investigation being made by the Commission or any inquiry being made by a board of adjudication but no notice of the authorization or of the purpose or scope of the investigation or inquiry, as the case may be, is to be made by the Commission or board of adjudication and no notice of the time and place of the investigation or inquiry need be published as required under section 88 of that Act.

S.M. 1974, c. 65, s. 22.

Access to premises and documents.

23(1) For the purpose of investigating a specific complaint under this Act, the executive director, any person with the written authorization of the executive director, or the board of adjudication,

(a) shall have access during normal business hours to any land, residence or business premises of any person with respect to whom there is reasonable and probable grounds to believe that such access will assist the investigation of the complaint; and

(b) may inspect such specific documents, correspondence and records relevant to the complaint and may make copies thereof or take extracts therefrom.

En. S.M. 1976, c. 48, s. 16.

Court order for access.

23(2) Where a person refuses to grant access or to produce documents, correspondence or records as required under subsection (1), the executive director or a board of adjudication may on an ex parte application to a judge of the County Court or Provincial Judges Court, apply for an order granting him access to the land, residence, business premises, documents, correspondence or records, as the case may be; and the judge, if he is satisfied that the authority for access is reasonable and necessary, may grant the order.

En. S.M. 1976, c. 48, s. 16.

Information confidential.

23(3) Except for the purposes of a prosecution under this Act, or any court proceeding or for the purpose of the administration and enforcement of this Act, no person shall

(a) knowingly communicate, or allow to be communicated to any person any information obtained under this section; or

(b) knowingly allow any person to inspect, or to have access to, any copy of any document, correspondence or record, obtained under this section.

En. S.M. 1976, c. 48, s. 16.

Exception.

23(4) Subsection (3) does not prohibit

(a) the communication of any information by the executive director or a board of adjudication or by a person acting under the authority of the executive director, to persons charged with the administration of any statutes of Canada or any other province that relate to the subject matter of this Act; or

(b) the communication of any information with the consent of the person to whom the information relates; or

(c) the release or publication by the executive director or the board of adjudication, with the consent of the owner, of any document, correspondence or record or any copy thereof.

En. S.M. 1976, c. 48, s. 16.

Obstruction.

24 No person shall hinder, obstruct, or interfere with or attempt to hinder, obstruct, molest or interfere with, the Commission or a person acting under the authority of the Commission or a board of adjudication in the exercise of their powers and duties under this Act.

S.M. 1974, c. 65, s. 24.

Hearing.

25(1) Upon the appointment of a board of adjudication the board shall without undue delay hold a public hearing for the purpose of inquiry into and deciding the complaint.

Evidence before board.

25(2) The board of adjudication may receive and accept, on oath, affidavit, or otherwise, such evidence or information as it, in its discretion, considers necessary and appropriate, whether or not such evidence or information would be admissible in a court of law.

Administration of oath.

25(3) Any member of the board of adjudication may administer an oath or affirmation to any witness who is called to give evidence before the board.

Notice to parties.

25(4) Before proceeding to hold a hearing, the board of adjudication shall give at least 10 days written notice of the date, time and place of the hearing to all the parties thereto, and a copy of the complaint shall be annexed to the notice.

Full opportunity to be heard.

25(5) The board of adjudication shall give to all parties to a hearing being conducted by it full opportunity to be represented by counsel, to present evidence and make submissions.

Exclusive jurisdiction of board to decide law and fact.

25(6) Subject to appeal under subsection 30(1), the board of adjudication has exclusive jurisdiction and authority to determine any question of fact or law or both required to be decided in reaching a decision as to whether or not any party has contravened this Act or for the making of any order pursuant to such decision.

En. S.M. 1976, c. 48, s. 17.
S.M. 1974, c. 65, s. 25; Am. S.M. 1976, c. 48, s. 17.

Parties to a hearing.

26 The parties to a hearing before a board of adjudication with respect to a complaint that is being inquired into by the board are,

(a) the Commission, which shall have the carriage of the complaint;

(b) the person named in the complaint as the complainant;

(c) any person named in the complaint and alleged to have been dealt with contrary to the provisions of this Act;

(d) the accused or any person named in the complaint as alleged to have contravened this Act; and

(e) any other person as may be determined by the board.

S.M. 1974, c. 65, s. 26.

Recording of oral evidence.

27 The oral evidence taken before a boad of adjudication shall be recorded.

S.M. 1974, c. 65, s. 27.

Powers of the board.

28(1) Where the board of adjudication decides that there has been no contravention of the Act by any party, it shall dismiss the complaint.

En. S.M. 1976, c. 48, s. 18.

Powers of board.

28(2) Where the board of adjudication decides that a party has contravened any provision of the Act, it may do one or more of the following things:

(a) Make an order requiring the party who contravened the Act to do or refrain from doing anything in order to secure compliance with the Act.

(b) Make an order requiring the party who contravened the Act to compensate the person discriminated against for all, or such part as a board may determine, of any wages or salary lost or expenses incurred by reason of the contravention of this Act.

(c) Order the person who contravened the Act to pay to the person discriminated against, a penalty or exemplary damages in such amount as the board may determine, if the board is of the opinion that the person discriminated against suffered damages in respect of his feelings, or selfrespect.

En. S.M. 1976, c. 48, s. 18.

Board of adjudication to advise Attorney-General if delay.

28(3) Where a board of adjudication has not rendered a decision within 90 days after being appointed, the board shall forthwith, in writing, advise the Attorney-General of the reasons for the delay and indicate when a decision will be rendered.

En. S.M. 1982, c. 23, s. 24

Action by Attorney-General.

28(4) At any time after 90 days have elapsed from the date of appointment of a board of adjudication, the Attorney-General may do any one or more of the following things:

(a) Fix a time within which the board shall render its decision or finding.

(b) Revoke the appointment of the board of adjudication and appoint a new board of adjudication, in which case the provisions of sections 21 to 31 apply, mutatis mutandis.

(c) If the board has completed a hearing of the evidence, order the board to file with the Court of Queen's Bench the record of the proceedings together with all the evidence in the board's possession which forms part of the record.

En. S.M. 1982, c. 23, s. 24

Disposition by Court of Queen's Bench.

28(5) Upon receipt of the record and evidence under clause (4)(c), the Court of Queen's Bench shall consider and dispose of the matter based on the record and evidence, mutatis mutandis, as it would dispose of an appeal under section 30.

En. S.M. 1982, c. 23, s. 24.
S.M. 1976, c. 48, s. 18; Am. S.M. 1982, c. 23, s. 24.

Order becoming judgment of court.

29(1) Subject to subsection (2), where a board of adjudication makes an order under clause 28(2)(b) or (c) or both, it may file a certified copy thereof in the Court of Queen's Bench and upon the filing of the order, it becomes a judgment of the Court of Queen's Bench and may be enforced as a judgment of that court.

En. S.M. 1976, c. 48, s. 19.

When order may be filed.

29(2) An order referred to in subsection (1) shall not be filed,

(a) until the time for appeal therefrom has expired and no appeal is filed; or

(b) where an appeal is filed against the order, after the appeal is dismissed.

S.M. 1974, c. 65, s. 29; Am. S.M. 1976, c. 48, s. 19.

Appeal.

30(1) Any party to a hearing before a board of adjudication may appeal from a decision or order of the board, within 30 days from the making of the decision or order, to the Court of Queen's Bench.

Service of notice of appeal.

30(2) A copy of the notice of appeal shall, within 7 days of the filing thereof be served personally or by registered mail to the appellant on all other persons who were parties to the hearing and on the board.

Record to be filed on appeal.

30(3) Forthwith upon the receipt of a notice of appeal under this section, the board of adjudication shall file with the Court of Queen's Bench, the record of the proceedings before it in which the decision or order appealed from was made which, together with a transcript of the oral evidence taken before the board, if it is not part of the record of the board, shall constitute the record in the appeal.

S.M. 1974, c. 65, s. 30.

Powers of court.

31 An appeal under section 30 may be made on questions of law or fact, or both, and the court after hearing the appeal may,

(a) affirm or reverse the decision or order of the board of adjudication; or

(b) direct the board to make any other decision or order that the board is authorized to make under the Act; or

(c) substitute its decision or order for that of the board.

S.M. 1974, c. 65, s. 31; Am. S.M. 1976, c. 48, s. 20.

Application to court for order for compliance.

32 Where a board of adjudication makes an order under clause 28(2)(a) and the person against whom the order is made refuses, fails or neglects to comply with the order or any part thereof, the minister may apply by way of Originating Notice of Motion to the Court of Queen's Bench for an order requiring the person to comply with the order of the board of adjudication or any part thereof.

S.M. 1974, c. 65, s. 32; Am. S.M. 1976, c. 48, s. 21; S.M. 1984, c. 17, s. 13(2).

Offences and penalties.

33(1) Every person who,

(a) deprives, abridges or restricts or attempts to deprive, abridge or restrict any person or class of persons in the enjoyment of a right under this Act;

(b) contravenes any provision of this Act; or

(c) fails, refuses or neglects to comply with an order of a board of adjudication, in whole or in part, other than an order or part of an order directing for the payment of wages;

is guilty of an offence and liable on summary conviction,

(d) if an individual to a fine of not less than $100.00 and not more than $1,000.00; or

(e) if a corporation, trade union, employers' organization, employment agency or occupational association, to a fine of not less than $500.00 and not more than $5,000.00.

Laying of information.

33(2) A prosecution for an offence under this Act may be commenced on the information of the Commission or any person alleging on behalf of himself or of any class of persons that an offence has been committed under this Act.

Prosecution of employers' organization, trade union or occupational association.

33(3) A prosecution for an offence under this Act may be brought against an employers' organization, trade union, or occupational association in the name of the organization, union or association; and for the purpose of such a prosecution the organization, union or association shall be deemed to be a person, and any act or thing done or omitted by an officer or agent of such an organization, union, or association, shall be deemed to be an act or thing done or omitted by the employers' organization, trade union or occupational association.

Limitation of time for prosecution.

33(4) No information may be laid or prosecution commenced,

(a) with respect to an alleged offence under this Act after the expiration of one year from the date of the alleged offence; or

(b) with respect to the failure, refusal, or neglect to comply with an order or part of an order of a board of adjudication, after the expiration of one year from the date of the making of the order, or where an appeal was taken from the order and was dismissed, after the expiration of one year from the date of the dismissal of the appeal; or

(c) with respect to the failure, refusal or neglect to comply with an order or part of an order of a board of adjudication where the board has allowed time for compliance therewith, after the expiration of one year from the date of expiration of the time allowed by the board to comply with the order.

Consent to prosecution.

33(5) No prosecution for an offence under this Act shall be instituted without the consent in writing of the minister.

Technical defects.

33(6) No proceeding under this Act shall be deemed invalid by reason of any defect in form or any technical irregularity.

S.M. 1974, c. 65, s. 33.

PART IV

MISCELLANEOUS

Injunction.

34 In addition to what may be permitted by this Act, a person who deprives, abridges or otherwise restricts or attempts to deprive, abridge or otherwise restrict a person or class of persons in the enjoyment of a right under this Act because of the race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, ethnic or national origin, political belief, family status, or source of income of the person; may be restrained by an injuction issued in an action in the Court of Queen's Bench brought by any person against the person responsible for the deprivation, abridgement or other restriction or any attempt thereat.

S.M. 1974, c. 65, s. 34; Am. S.M. 1976, c. 48, s. 22; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 25.

Regulations.

34.1 The Lieutenant Governor in Council may, for the purposes of section 7, make regulations prescribing guidelines which may be followed by, but are not necessarily binding upon, the commission or a board adjudication.

En. S.M. 1976, c. 48, s. 23.

Crown bound.

35 The Crown, and every servant and agent of the Crown, is bound by this Act.

S.M. 1974, c. 65, s. 35.

Transitional provision.

36 Where prior to the coming into force of the amendments set out in this Act, any matter, application, proceeding, investigation or hearing was commenced, that matter, application, proceeding, investigation or hearing shall be continued and completed in accordance with the provisions of The Human Rights Act, being chapter H175 of the Revised Statutes, as it stood prior to the coming into force of this Act.

En. S.M. 1976, c. 48, s. 24.

Repeal.

37 The Human Rights Act, being chapter 104 of the Statutes of Manitoba, 1970 (chapter H175 of the Continuing Consolidation of the Statutes of Manitoba) is repealed.

S.M. 1974, c. 65, s. 37.

Reference in continuing consolidation.

38 This Act may be referred to as chapter H175 in the continuing consolidation of the Statutes of Manitoba.

S.M. 1974, c. 35, s. 38.

Commencement of Act.

39 This Act comes into force on a day fixed by proclamation.

S.M. 1974, c. 65, s. 39.

Note: This Act was proclaimed in force on October 25, 1974. See Manitoba Gazette, October 19, 1974, page 1185.

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APPENDIX F

Evolution of the Manitoba Human Rights Act

Group Factor / Grounds of Complaint	Notices/ Signs/ Symbols	Accommodations/ Services/ Facilities	Housing	Purchase of Property	Employment	Contracts
Race	1970	1970	1970	—	1970	1970
	1974	1974	1974	1974	1974	1974
	1976	1976	1976	1976	1976	1976
Colour	1970	1970	1970	—	1970	1970
	1974	1974	1974	1974	1974	1974
	1976	1976	1976	1976	1976	1976
Nationality	—	1970	1970	—	1970	—
	1974	1974	1974	1974	1974	1974
	1976	1976	1976	1976	1976	1976
Ethnic/ National Origin	1970	1970	1970	—	1970	1970
	1974	1974	1974	1974	1974	1974
	1976	1976	1976	1976	1976	1976
Sex	1970	—	—	—	1970	1970
	1974	1974	1974	1974	1974	1974
	1976	1976	1976	1976	1976	1976
Marital Status	—	—	—	—	—	—
	1974	—	—	1974	1974	1974
	1976	1976	1976	1976	1976	1976
Age	—	—	—	—	—	—
	—	1974	1974	1974	1974	1974
	1976	1976	1976	1976	1976	1976
Family Status	—	—	—	—	—	—
	—	—	—	—	—	—
	1976	1982	1976	1982	1976	1976
Source of Income	—	—	—	—	—	—
	—	—	1974	—	—	—
	1976	—	1976	—	—	—
Religion	1970	1970	1970	—	1970	1970
	1974	1974	1974	1974	1974	1974
	1976	1976	1976	1976	1976	1976
Political Belief	—	—	—	—	—	—
	—	—	—	—	1974	—
	—	—	—	—	1976	—
Physical Handicap	1977	1977	1977	1977	1977	1977
Mental Handicap	1982	1982	1982	1982	1982	1982

APPENDIX G

Complaint of Discrimination Under The Manitoba Human Rights Act

Case No.

Name and Address of the person(s) filing the complaint (hereinafter called "the Complainant")	Name and Address of the person(s) complained against (hereinafter called "the Respondent")
Name and Address of any person or class of persons discriminated against in addition to or other than the Complainant(s)	

The Complainant alleges that in the Province of Manitoba

on or about the _____ day of _____ 19

OR

on a continuing basis
up to and including the _____ day of _____ 19

that the Respondent(s) did contravene section(s) _____ of **The Human Rights Act**, or any other applicable section, as follows:

SAMPLE

I certify that the foregoing information is correct to the best of my knowledge and I believe that the events described above constitute a contravention of **The Human Rights Act**.

I hereby confirm that the Manitoba Human Rights Commission and its officers have my consent to examine and/or make copies of any and all records, reports, documents or data, including all medical records, as may be required, in the investigation of this complaint.

City, Town Complaint Signed At	Date Day / Month / Year	Signature of Complainant

APPENDIX H

The Manitoba Human Rights Commission Publications List

Guidelines: Housing (1983)

– This 15 page booklet sets out the housing provisions of the Manitoba Human Rights Act. Of interest to owners, apartment managers, rental agencies, tenants and members of the public.

Guidelines: Pre-Employment Inquiries (1984)

– Outlines, in 14 pages, the pre-employment provisions of the Manitoba Human Rights Act. Information is likely to be of use to employers, personnel departments, employment agencies, people seeking employment, and members of the general public.

Inventory of Human Rights Teaching Materials (1984)

– Contains a bibliography of human rights teaching materials available in Manitoba. Materials are for use in the classroom or as source books for teachers (26 pages).

The Manitoba Human Rights Act, C.C.S.M., c. H175

The Manitoba Human Rights Act (Brochure)*

Outlines the basic provisions of Manitoba's human rights legislation.

The Manitoba Human Rights Commission Annual Report

– Contains information on the Commission's structure and function, major activities of the past year, case examples, statistical highlights and a copy of *The Human Rights Act* of Manitoba (67 pages).

Out from the Shadows: A Bibliography of the History of Women in Manitoba (1975) (64 pages)

Sexual Harassment: Does it affect your workplace?/Does it affect you? (Brochure)

– Contains information for both employers and employees on what constitutes sexual harassment and what can be done about it.

Taxi: Serving the Handicapped Fare (Brochure)

– Sets out the rights and responsibilities of cab drivers serving taxi customers or potential customers with physical disabilities. Also contains tips to drivers for providing effective, quality service to handicapped customers.

*Available in both French and English.

Manitoba Human Rights Commission Audio-Visual Materials

"The Eye of the Storm", New York: American Broadcasting Companies Inc., 1970 (28 min.)

Documentary about a 3rd grade teacher who uses eye-colour as a basis to teach students the realities of prejudice and discrimination.

A list of discussion questions has been developed to accompany this film.

"Buttonville", The Alberta Human Rights Commission, 1979. (25 min.)

Cartoon story about plant people who are all required to wear identifying buttons. When one of the plant people loses his button the whole town learns a lesson about labelling.

A Teacher's Guide is also available which includes various learning activities for Grades 1-3 and Grades 4-6.

"A Different Approach", The South Bay Mayor's Committee for Employment of the Handicapped, 1978 (20 min.)

Designed to dispel myths and prejudices about employment of the handicapped, the film contains a series of comedy vignettes presenting handicapped individuals performing various job functions.

"The Workplace Hustle", Clark Communications, 1980. (30 min.)

A group of women and a group of men discuss sexual harassment in the workplace. Lin Farley, author of *Sexual Shakedown*, talks about sexual harassment, why it happens and the effect it has on its victims.

A list of discussion questions has been developed to accompany this film.

"Preventing Sexual Harassment", BNA Communications, 1980 (20 min.)

The film discusses examples of sexual harassment and informal and formal ways with which it can be dealt. Legal avenues discussed are based on American law.

"See What I Say", Michigan Women Filmmakers, 1981. (25 min.)

The deaf discuss how American Sign Language enables them to communicate. A concert for the deaf by Holly Near illustrates the expressiveness and beauty of the language.

"What You Should Know About the Human Rights Act"

Video-tapes VHS and Beta format available.

— This 30 minute video-tape includes basic information about *The Human Rights Act*. It is divided into three segments each containing the same information. Segment 1 is in the Cree language, Segment 2 is in the Island Lake Dialect and the third segment is in Saulteaux (Ojibway language). Each segment deals with an explanation about the Commission, the protection offered under the Act and information pertaining to complaints.

Posters

Canadian Bill of Rights

The Manitoba Human Rights Act prohibits discrimination in Employment

The Manitoba Human Rights Act prohibits discrimination in Employment, Rental Housing, Services, and Accommodations

The Manitoba Human Rights Act prohibits discrimination in Rental Housing

The Manitoba Human Rights Act prohibits discrimination in Services and Accommodations